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Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar.29th January, 2007.

No. RPB/5-2007/Act-35-06/E :—The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

Legislative Department

New Delhi, the 28th August, 2006/Bhadra 6, 1928 (Saka)

The following Act of Parliament has received the assent of the President on the 27th August 2006, is hereby published for general information :-

THE ACTUARIES ACT, 2006

AN ACT

(Act No. 35 of 2006) (27th August, 2006)

to provide for regulating and developing the profession of Actuaries and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (*1*) This Act may be called the Actuaries Act, 2006. Short title, extent and commencement.

(*2*) It extends to the whole of India.

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the commencement of that provision.

2. (*1*) In this Act, unless the context otherwise requires,— Definitions.

(*a*) "Actuary" means a person skilled in determining the present effects of future contingent events or in finance modelling and risk analysis in different areas of

insurance, or calculating the value of life interests and insurance risks, or designing and pricing of policies, working out the benefits, recommending rates relating to insurance business, annuities, insurance and pension rates on the basis of empirically based tables and includes a statistician engaged in such technology, taxation, employees' benefits and such other risk management and investments and who is a fellow member of the Institute; and the expression "actuarial science" shall be construed accordingly;

(*b*) "Actuarial Society" means the Actuarial Society of India registered under the Societies Registration Act, 1860 and the Bombay Public Trusts Act, 1950; 21 of 1860.

(*c*) "appointed day" means the date on which the Institute is constituted under sub-section (*1*) of section 3; Bombay Act No. XXXIX of 1950.

(*d*) "Authority" means the Appellate Authority referred to in section 32;

(*e*) "Board" means the Quality Review Board constituted under sub-section (*1*) of section 43;

(*f*) "Council" means the Council of the Institute as referred to in section 12;

(*g*) "fellow" means a fellow member of the Institute;

(*h*) "Institute" means the Institute of Actuaries of India constituted under section 3;

(*i*) "member" means an individual whose name appears in the register of members maintained by the Institute;

(*j*) "prescribed" means prescribed by rules made under this Act;

(*k*) "President" means the President of the Council;

(*l*) "register" means the register of members maintained by the Institute under this Act;

(*m*) "specified" means specified by regulations made under this Act;

(*n*) "Tribunal" means a Tribunal established under sub-section (*1*) of section 16;

(*o*) "Vice-President" means the Vice-President of the Council;

(*p*) "year" means the period commencing on the 1st day of April of any year and ending on the 31st day of March of the succeeding year.

(*2*) Save as otherwise provided in this Act, a member of the Institute shall be deemed "to be in practice" when individually or in partnership with Actuaries in practice as a member or an employee of a company, he, whether or not in consideration of remuneration received or to be received,—

(*i*) engages himself in actuarial profession; or

(*ii*) offers to perform or performs services involving the application of actuarial techniques in the fields of insurance, pension, investment, finance and management; or

(*iii*) renders such other services as, in the opinion of the Council, are or may be rendered by an actuary in practice; or

(*iv*) is in employment of a person engaged in one or more of the activities mentioned in clauses (*i*), (*ii*) and (*iii*) above,

and the words "to be in practice" with their grammatical variations and cognate expressions shall be construed accordingly.

Explanation.—For the purposes of this sub-section, the expression "company" includes a public financial institution as defined in section 4A of the Companies Act, 1956. 1 of 1956.

CHAPTER II

INSTITUTE OF ACTUARIES OF INDIA

Incorporation of Institute.

3. (*1*) With effect from such date as the Central Government may, by notification in the Official Gazette, appoint, all persons whose names are entered in the register of the Actuarial Society at the commencement of this Act and all persons who may thereafter have their

names entered in the register to be maintained under this Act, so long as they continue to have their names borne on the register, are hereby constituted a body corporate by the name of the Institute of Actuaries of India and all such persons shall be known as members of the Institute.

(2) The Institute shall have perpetual succession and a common seal and shall have power to acquire, hold and dispose of property, both movable and immovable, and shall by its name sue or be sued.

(3) The head office of the Institute shall be situated at such place as may be decided by the Central Government.

Transfer of assets, liabilities, etc., of Actuarial Society.

4. On the appointed day,—

(a) all the assets and liabilities of the Actuarial Society shall stand transferred to, and vested in, the Institute.

Explanation.—The assets of the Actuarial Society shall be deemed to include all rights and powers and all properties, whether movable or immovable, including, in particular, cash balances, deposits and all other interests and rights in, or arising out of, such properties as may be in the possession of the said Society and all books of account and other documents relating to the same; and liabilities shall be deemed to include all debts, liabilities and obligations of whatever kind;

(b) without prejudice to the provisions of clause (a), all debts, obligations and liabilities incurred, all contracts entered into and all matters and things engaged to be done by, with or for the Actuarial Society immediately before that day, for or in connection with the purpose of the said Society, shall be deemed to have been incurred, entered into or engaged to be done by, with or for, the Institute;

(c) all sums of money due to the Actuarial Society immediately before that day shall be deemed to be due to the Institute; and

(d) all suits and other legal proceedings instituted or which could have been instituted by or against the Actuarial Society immediately before that day may be continued or may be instituted by or against the Institute.

Objects of Institute.

5. The objects of the Institute shall be—

(a) to promote, uphold and develop the standards of professional education, training, knowledge, practice and conduct amongst Actuaries;

(b) to promote the status of the Actuarial profession;

(c) to regulate the practice by the members of the profession of Actuary;

(d) to promote, in the public interest, knowledge and research in all matters relevant to Actuarial science and its application; and

(e) to do all such other things as may be incidental or conducive to the above objects or any of them.

Entry of names in register.

6. (1) Any of the following persons shall be entitled to have his name entered in the register, namely:—

(a) any person who immediately before the appointed day was an associate or a fellow (including an honorary fellow) of the Actuarial Society;

(b) any person who has passed the examination conducted by the Actuarial Society and has completed training either as specified by the said Society or as specified by the Council, except any such person who is not a permanent resident of India;

(c) any person who has passed such examination and completed such training, as may be specified for membership of the Institute;

(*d*) any person who has passed such other examination and completed such other training outside India as is specified as being equivalent to the examination and training specified under this Act for membership of the Institute:

Provided that in the case of any person belonging to any of the classes mentioned in this sub-section who is not permanently residing in India, the Central Government or the Council may impose such further conditions as it may deem necessary or expedient in the public interest.

(*2*) Every person mentioned in clause (*a*) of sub-section (*1*) may have his name entered in the register without the payment of any entrance fee.

(*3*) Every person belonging to any of the classes mentioned in clauses (*b*), (*c*) and (*d*) of sub-section (*1*) shall have his name entered in the register on an application being made and granted in the specified manner and on payment of such fees, as may be specified.

(*4*) The Council shall take such steps as may be necessary for the purpose of having the names of all persons belonging to the class mentioned in clause (*a*) of sub-section (*1*) entered in the register before the appointed day.

(*5*) Notwithstanding anything contained in this section, the Council may confer on any person honorary fellow membership, if the Council is of the opinion that such person has made a significant contribution to the profession of Actuary and thereupon the Council shall enter the name of such person in the register but such person shall not have any voting rights in any election or meetings of the Institute and shall not also be required to pay any fee to the Institute.

Associates and fellows.

7. (*1*) The members of the Institute shall be divided into two classes designated respectively as associates and fellows.

(*2*) Any person other than a person to whom the provisions of sub-section (*3*) apply, shall, on his name being entered in the register, be deemed to have become an associate and as long as his name remains so entered, shall be entitled to use the letters "AIAI" after his name to indicate that he is an associate.

(*3*) Any person who was a fellow of the Actuarial Society and who is entitled to have his name entered in the register under clause (*a*) of sub-section (*1*) of section 6 shall be entered in the register as a fellow.

(*4*) Any person whose name is entered in the register as fellow shall, so long as his name remains so entered, be entitled to use the letters "FIAI" after his name to indicate that he is a fellow.

Honorary, affiliate and student members.

8. (*1*) The Council may choose, in such manner as may be specified , any person of eminence in matters relating to and of interest to the profession of Actuary as an honorary member of the Institute provided that he is not practicing as an Actuary.

(*2*) Any person, who is a fellow member, or is a holder of membership considered equivalent to the fellow membership of the Institute, of any other institution similar to the Institute, whether within or outside India, may be admitted as an affiliate member for such period, and on such terms and conditions as may be specified.

(*3*) Any person who enrolls himself for examination of the Institute, and possesses such academic qualifications as may be specified, may be admitted as a student member of the Institute on such terms and conditions as may be specified.

(*4*) An honorary member or an affiliate member or a student member shall have no right to vote on any matter or resolution in any meeting of the Institute.

Certificate of practice.

9. (*1*) No member of the Institute shall be entitled to practice unless he fulfils the qualifications as may be specified and obtains from the Council a certificate of practice.

(2) A member who desires to be entitled to practice shall make an application in such form and pay such annual fee for certificate of practice as may be specified and such fee shall be payable on or before the first day of April in each year.

(3) The certificate of practice obtained under sub-section (1) may be cancelled by the Council under such circumstances as may be specified.

10. Every member of the Institute in practice shall, and any other member may, use the designation of an Actuary and no member using such designation shall use any other description whether in addition thereto or in substitution therefor: Members to be known as Actuaries.

Provided that nothing contained in this section shall be deemed to prohibit any such member from adding any other description or letters to his name, if entitled thereto, to indicate membership of such other Institute, whether in India or elsewhere, as may be recognised in this behalf by the Council, or any other qualification that he may possess, or to prohibit a firm, all the partners of which are members of the Institute and in practice, from being known by its firm name as Actuaries.

11. Notwithstanding anything contained in section 6, a person shall not be entitled to have his name entered in, or borne on, the register if he— Disqualifications.

(a) has not attained the age of twenty-one years at the time of his application for the entry of his name in the register; or

(b) is of unsound mind and stands so adjudged by a competent court; or

(c) is an undischarged insolvent; or

(d) being a discharged insolvent, has not obtained from the court a certificate stating that his insolvency was caused by misfortune and without any misconduct on his part; or

(e) has been convicted by a competent court whether within or outside India, of an offence involving moral turpitude and punishable with imprisonment or of an offence, not of a technical nature, committed by him in his professional capacity unless in respect of the offence committed he has either been granted a pardon or, on an application made by him in this behalf, the Central Government has, by an order in writing, removed the disqualification; or

(f) has been removed from the membership of the Institute on being found on inquiry to have been guilty of a professional or other misconduct:

Provided that a person who has been removed from the membership for a specified period shall not be entitled to have his name entered in the Register until the expiry of such period.

12. (1) There shall be a Council of the Institute for the management of the affairs of the Institute and for discharging the functions assigned to it by or under this Act. Composition of Council of Institute.

(2) The Council shall be composed of the following persons, namely:—

(a) a minimum of nine and not more than twelve persons from amongst fellow members to be elected by the fellow and the associate members of the Institute in such manner as may be prescribed:

Provided that a fellow of the Institute, who has been found guilty of any professional or other misconduct and whose name is removed from the Register or has been awarded penalty of fine, shall not be eligible to contest election,—

(i) in case of misconduct falling under the Schedule of this Act [except Part IV(B)], for a period of three years; or

(ii) in case of misconduct falling under Part IV(B) of the Schedule of this Act, for a period of six years,

after the completion of the period of removal of name of the fellow from the Register or the payment of fine is made, as the case may be; and

(b) (i) an officer not below the rank of Joint Secretary to the Government of India, to be nominated by the Central Government to represent the Ministry of Finance;

(*ii*) one person from the Insurance Regulatory and Development Authority constituted under the Insurance Regulatory and Development Authority Act, 1999 nominated by the Central Government; and 41 of 1999.

(*iii*) not more than two persons having knowledge in the field of life insurance, general insurance, finance, economics, law, accountancy or any other discipline which in the opinion of the Central Government, would be useful to the Council, to be nominated in such manner as may be prescribed:

Provided that till such time as the Council is constituted under this Act, the Executive Committee of the Actuarial Society shall discharge all the functions and shall have all the powers of the Council.

(*3*) No person holding a post under the Central Government or a State Government, as the case may be, shall be eligible for election to the Council under clause (*a*) of sub-section (*2*).

(*4*) One-third of the members of the Council referred to in clause (*a*) of sub-section (*2*) shall retire as soon as may be on the expiration of every second year by rotation but shall be eligible for re-election.

(*5*) Any person nominated under clause (*b*) of sub-section (*2*) shall hold office for a period of six years from the date of his nomination unless he is removed earlier by the Central Government and shall be eligible for re-nomination:

Provided that he shall be given an opportunity of being heard before such removal.

Annual general meetings.

13. The Council shall every year hold an annual general meeting of the Institute to elect its members under clause (*a*) of sub-section (*2*) of section 12, or to discuss any matter which it deems fit, and not more than fifteen months shall elapse between the date of one annual general meeting of the Institute and that of the next:

Provided that from the appointed day the Institute may hold its first annual general meeting within a period of not more than eighteen months and if such general meeting is held within that period, it shall not be necessary for the Institute to hold any general meeting in that year:

Provided further that the Central Government may, for sufficient reasons, extend the time within which any general meeting shall be held.

Re-election to Council.

14. (*1*) Subject to the provisions of sub-section (*2*), a member of the Council elected under clause (*a*) of sub-section (*2*) of section 12 shall be eligible for re-election but not for more than two consecutive terms.

(*2*) A member of the Council, who is or has been elected, as the President under sub-section (*1*) of section 17, shall not be eligible for election or nomination as a member of the Council.

Settlement of disputes regarding election.

15. In case of any dispute regarding any election under clause (*a*) of sub-section (*2*) of section 12, the aggrieved person may make an application within thirty days from the date of the declaration of the result of the election to the Council which shall forward the same forthwith to the Central Government.

Establishment of Tribunal.

16. (*1*) On receipt of any application under section 15, the Central Government shall, by notification, establish a Tribunal consisting of a Presiding Officer and two other Members to decide such dispute and the decision of such Tribunal shall be final.

(*2*) A person shall not be qualified for appointment,—

(*a*) as a Presiding Officer of the Tribunal unless he has been a member of the Indian Legal Service and has held a post in Grade I of the service for at least three years;

(*b*) as a Member unless he has been a member of the Council for at least one full term and who is not a sitting Member of the Council or who has not been a candidate in the election under dispute; and

(*c*) as a Member unless he holds the post of a Joint Secretary to the Government of India or any other post under the Central Government carrying a scale of pay which is not less than that of a Joint Secretary to the Government of India.

(*3*) The terms and conditions of service of the Presiding Officer and Members of the Tribunal, their place of meetings, remuneration and allowances shall be such as may be prescribed.

(*4*) The expenses of the Tribunal shall be borne by the Council.

17. (*1*) The Council shall, at its first meeting, elect three of its members from amongst persons referred to in clause (*a*) of sub-section (*2*) of section 12, to be respectively the President, Vice-President and Honorary Secretary thereof, and as often as the office of the President, Vice-President and Honorary Secretary falls vacant, the Council shall choose one of the member in the same manner : President, Vice-President and Honorary Secretary.

Provided that the Chairperson of the Council of the Actuarial Society shall continue to hold such office as President after the commencement of this Act, until such time as a President is elected under the provisions of this sub-section.

(*2*) The President shall be the Chief Executive Officer of the Council.

(*3*) The President, the Vice-President or the Honorary Secretary shall hold office for a period of two years from the date on which he is chosen provided that he continues to be a member of the Council.

(*4*) The President and the Vice-President shall, notwithstanding the expiration of his term, continue to hold office until his successor enters upon his office.

(*5*) In the event of occurrence of any vacancy in the office of the President, the Vice-President shall act as the President until a new President is elected in accordance with the provisions of this section to fill such vacancy and enters upon his office.

(*6*) When the President is unable to discharge his functions owing to absence, illness or any other cause, the Vice-President shall discharge his functions until the President resumes his duties.

18. (*1*) Any member of the Council may at any time resign his membership by writing under his hand addressed to the President, and the seat of such member shall become vacant when such resignation is accepted and notified by the Council. Resignation from membership and filling up of casual vacancies.

(*2*) A member of the Council, other than a member nominated under clause (*b*) of sub-section (*2*) of section 12 shall be deemed to have vacated his seat if he is declared by the Council to have been absent without sufficient reason from three consecutive meetings of the Council, or of any of the Committees constituted by the Council, and of which he is a member or he has been found guilty of any professional or other misconduct and awarded penalty of fine or if his name is, for any cause, removed from the register under the provisions of sections 24 and 30.

(*3*) A casual vacancy in the office of a member of the Council shall be filled by fresh election or by nomination by the Central Government, as the case may be, and the person elected or nominated to fill the vacancy shall hold office only for the remainder of the term for which the member in whose place he was elected or nominated would have held that office:

Provided that no election shall be held to fill a casual vacancy occurring within one year prior to the date of the expiration of the term of such member.

(*4*) No act done by the Council shall be called in question on the ground merely of the existence of any vacancy in, or defect in the constitution of the Council.

19. (*1*) The duty of carrying out the functions under the provisions of this Act shall be vested in the Council. Functions of Council.

(*2*) In particular and without prejudice to the generality of the foregoing power, the functions of the Council shall include—

(*a*) the holding of examination of the candidates for enrolment and specifying fees therefor;

(*b*) the specifying of qualifications for entry in the register;

(*c*) the recognition of foreign qualifications and training for the purposes of enrolment;

(*d*) the granting of or refusal to grant the certificate of practice under this Act;

(*e*) the maintenance and publication of a register of persons qualified to practice as Actuaries;

(*f*) the levy and collection of fees from members, students, examinees and other persons;

(*g*) the removal of names from the register and the restoration to the register of names which have been removed;

(*h*) the regulation and maintenance of the status and standard of professional qualifications of members of the Institute;

(*i*) to issue guidelines for the observance of the members, including the student members;

(*j*) to receive gifts, grants, donations or benefactions from the Central or State Governments and to receive bequests, donations and transfer of movable or immovable properties from testators, donors or transferors, as the case may be;

(*k*) co-operating with educational or other institutions in any part of the world having objects wholly or partly similar to those of the Institute by exchange of members and generally in such manner as may be conducive to achievement of their common objects;

(*l*) instituting and awarding fellowships, scholarships, prizes and medals;

(*m*) giving gifts, grants, donations or benefactions to other institutions or bodies having objects similar to those of the Institute;

(*n*) the carrying out, by granting financial assistance to persons other than members of the Council, or in any other manner, of research in the actuarial science;

(*o*) the maintenance of a library and publication of books, journals and periodicals relating to actuarial science;

(*p*) the exercise of disciplinary powers conferred by this Act;

(*q*) establishing such regional council or councils as may be decided from time to time and fixing their headquarters; and

(*r*) doing all such things as may be necessary, incidental or conducive to the attainment of all or any of the objects of the Institute.

Staff, remuneration and allowances.

20. (*1*) For the efficient performance of its functions, the Council may—

(*a*) appoint an Executive Director, a Treasurer and such other officers and employees as it deems necessary and fix their salaries, fees, allowances and other conditions of service; and

(*b*) fix the allowances of the President, the Vice-President, the Honorary Secretary and other members of the Council and its Committees,

in such manner as may be specified.

(*2*) The Executive Director of the Council shall be entitled to participate in the meetings of the Council but shall not be entitled to vote thereat.

Committees of Council.

21. (*1*) The Council may constitute such committees from amongst its members, and co-opt therein persons who are not members of the Institute, as it deems necessary for the purpose of carrying out the provisions of this Act:

Provided that the number of co-opted members shall not exceed one-third of the total membership of the committee.

(*2*) Every committee constituted under this section shall elect its own Chairman:

Provided that—

(*i*) where the President is a member of such committee, he shall be the Chairman of such committee, and in his absence, the Vice-President, if he is a member of such committee, shall be its Chairman; and

(*ii*) where the President is not a member of such committee but the Vice-President is a member, he shall be its Chairman.

(*3*) The committees shall exercise such functions and be subject to such conditions as may be specified.

22. (*1*) There shall be established a fund under the management and control of the Council into which shall be paid all moneys (including donations and grants) received by the Council and out of which shall be met all expenses and liabilities incurred by the Council. Finances of Council.

(*2*) The Council may invest any money for the time being standing to the credit of the fund in any security as it may deem prudent consistent with the considerations of security of such investments and maximum returns thereon.

Explanation.— For the purposes of this sub-section, the expression "securities" shall have the meaning assigned to it in section 2 of the Securities Contracts (Regulation) Act, 1956, as amended from time to time. 42 of 1956.

(*3*) The Council shall keep proper accounts of the fund distinguishing capital account from revenue account.

(*4*) The annual accounts of the Institute shall be subject to audit by a Chartered Accountant in practice within the meaning of the Chartered Accountants Act, 1949 to be appointed annually by the Council: 38 of 1949.

Provided that no member of the Council who is a Chartered Accountant or a person who is in partnership with such member shall be eligible for appointment as an auditor under this sub-section.

(*5*) As soon as may be practicable at the end of each year, but not later than the 30th day of September of the year next following, the Council shall cause to be published in the Gazette of India, a copy of the audited accounts and the report of the Council for that year and copies of the said accounts and report shall be forwarded to the Central Government and to all the members of the Institute.

(*6*) The Council may borrow from a scheduled bank, as defined in the Reserve Bank of India Act, 1934, or from any public financial institution— 2 of 1934.

(*a*) any money required for meeting its liabilities on capital account on the security of the fund or on the security of any other asset, for the time being belonging to it; or

(*b*) for the purpose of meeting current liabilities, pending the receipt of income, by way of temporary loan or overdraft.

Explanation.—The expression "public financial institution" means a financial institution specified in section 4A of the Companies Act, 1956. 1 of 1956.

CHAPTER III

REGISTER OF MEMBERS

23. (*1*) The Council shall maintain in the specified manner a register of the members of the Institute. Register.

(*2*) The register shall include the following particulars about every member of the Institute, namely :—

(*a*) his full name, date of birth, domicile, residential and professional addresses;

(*b*) the date on which his name is entered in the register;

(*c*) his qualifications;

(*d*) whether he holds a certificate of practice; and

(*e*) any other particulars which may be specified.

(*3*) The Council shall cause to be published in such manner as may be specified a list of members as on the 1st day of April each year, and shall, if requested to do so by any such member, send him a copy of such list, on payment of such amount as may be specified.

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(4) Every member of the Institute shall, on his name being entered in the register, pay such annual membership fee as may be specified by the Council.

Removal of name from Register.

24. The Council may, by order, remove from the register the name of any member of the Institute—

(a) who is dead; or

(b) from whom a request has been received to that effect; or

(c) who has not paid any specified fee required to be paid by him; or

(d) who is found to have been subject to, at the time when his name was entered in the register, or who at any time thereafter has become subject to, any of the disqualifications mentioned in section 11; or

(e) who for any other reason has ceased to be entitled to have his name borne on the register.

Re-entry in register.

25. The Council may re-enter the name of a member whose name has been removed from the register for reasons mentioned in clauses (b), (c), (d) and (e) of section 24, by an order, and on paying such fees, and after satisfying such conditions and requirements as may be specified.

CHAPTER IV

MISCONDUCT

Disciplinary Committee.

26. (1) The Council shall constitute a Disciplinary Committee consisting of the President or the Vice-President of the Council as the Presiding Officer and two members of the Council elected by the Council and two members to be nominated by the Central Government from amongst the persons of eminence having experience in the field of law, education, economics, business, finance, accountancy or public administration:

Provided that the Council may constitute more regional Disciplinary Committees as and when it deems fit.

(2) The Disciplinary Committee in making the inquiry under the provisions of this Act shall follow such procedure and submit the report to the Council within such time as may be prescribed.

Appointment of Prosecution Director.

27. (1) The Council may, by notification, appoint a Prosecution Director and such other employees to assist the Disciplinary Committee in making inquiries in respect of any information or complaint received by the Council under the provisions of this Act.

(2) In order to make inquiries under the provisions of this Act, the Prosecution Director shall follow such procedure as may be prescribed.

Authority, Council, Disciplinary Committee and Prosecution Director to have powers of civil court.

28. For the purposes of an inquiry under the provisions of this Act, the Authority, the Disciplinary Committee and the Prosecution Director shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, in respect of the following matters, namely:— 5 of 1908.

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) the discovery and production of any document; and

(c) receiving evidence on affidavit.

Action by Council on Disciplinary Committee's report.

29. (1) On receipt of a report from the Disciplinary Committee, if the Council is satisfied that the member of the Institute is guilty of any professional or other misconduct, it shall record its findings accordingly and shall proceed in accordance with the provisions of section 30.

(2) In case the Council is not satisfied with the report of the Disciplinary Committee and is of the opinion that it requires further inquiry, it may refer the report again to the Disciplinary Committee for such further inquiry as may be directed through an order of the Council.

(3) If the Council disagrees with the findings of the Disciplinary Committee, it may direct the Prosecution Director or itself make an appeal to the Authority.

Member to be afforded opportunity of being heard.

30. Where the Council is of the opinion that a member is guilty of a professional or other misconduct mentioned in the Schedule, it shall afford to the member a reasonable opportunity of being heard before making any order against him and may thereafter take any one or more of the following actions, namely:—

(a) reprimand the member; or

(b) remove the name of the member from the register permanently or for such period, as it thinks fit.

(c) impose such fine as it may think fit, which may extend to five lakh rupees.

Explanation.—For the purposes of this section, "member of the Institute" includes a person who was a member of the Institute on the date of the alleged misconduct although he has ceased to be a member of the Institute at the time of the inquiry.

Professional or other misconduct defined.

31. For the purposes of this Act, the expression "professional or other misconduct" shall be deemed to include any act or omission provided in the Schedule, but nothing in this section shall be construed to limit or abridge in any way the power conferred or duty cast on the Disciplinary Committee or the Prosecution Director to inquire into the conduct of any member of the Institute under any other circumstances.

CHAPTER V

APPEALS

Constitution of Appellate Authority.

38 of 1949.

32. The Appellate Authority constituted under sub-section (1) of section 22A of the Chartered Accountants Act, 1949, shall be deemed to be the Appellate Authority for the purposes of this Act subject to the modification that for clause (b) of said sub-section (1), the following clause had been substituted, namely:—

"(b) the Central Government shall, by notification, appoint two part-time Members from amongst the persons who have been members of the Council of the Institute of Actuaries for at least one full term and who are not sitting members of the Council;".

Term of office of Members of Authority.

33. A person appointed as a Member shall hold office for a term of three years from the date on which he enters upon his office or until he attains the age of sixty-seven years, whichever is earlier.

Allowances, conditions of service of Members and procedure, etc., of Authority.

38 of 1949.

34. The provisions of section 22C, section 22D and section 22F of the Chartered Accountants Act, 1949 shall apply to the Authority in relation to allowances and terms and conditions of service of its Chairperson and members, and in discharge of its functions under this Act as they apply to it in the discharge of its functions under the Chartered Accountants Act, 1949.

Officers and other staff of Authority.

35. (1) The Council shall make available to the Authority such officers and other staff members as may be necessary for the efficient performance of the functions of the Authority.

(2) The salaries and allowances and conditions of service of the officers and other staff members of the Authority shall be such as may be specified.

Appeal to Authority.

36. (1) Any member of the Institute aggrieved by any order of the Council imposing on him any of the penalties referred to in section 30, may, within ninety days of the date on which the order is communicated to him, prefer an appeal to the Authority:

Provided that the Authority may entertain any such appeal after the expiry of the said period of ninety days, if it is satisfied that there was sufficient cause for not filing the appeal in time.

(*2*) The Authority may, after calling for the records of any case, revise any order made by the Council under section 30 and may—

(*a*) confirm, modify or set aside the order;

(*b*) impose any penalty or set aside, reduce or enhance the penalty imposed by the order;

(*c*) remit the case to the Disciplinary Committee for such further inquiry as the Authority considers proper in the circumstances of the case; or

(*d*) pass such other order as the Authority thinks fit:

Provided that the Authority shall give an opportunity of being heard to the parties concerned before passing any order.

CHAPTER VI

PENALTIES

Penalty for falsely claiming to be a member, etc.

37. Subject to the provisions of section 10, any person who,—

(*a*) not being a member of the Institute,—

(*i*) represents that he is a member of the Institute in any of the manners mentioned in section 7; or

(*ii*) uses the designation "Actuary"; or

(*iii*) uses the letters "AIAI" or "FIAI" after his name; or

(*iv*) practises the profession of an Actuary; or

(*b*) being a member of the Institute, but not having a certificate of practice, represents that he is in practice, or practises as an Actuary,

shall be punishable on first conviction with fine which may extend to one lakh rupees, and on any subsequent conviction with imprisonment which may extend to one year, or with fine which may extend to two lakh rupees, or with both.

Penalty for using name of Institution, awarding degrees of actuarial science, etc.

38. (*1*) Save as otherwise provided in this Act, no person shall—

(*a*) use a name or a common seal which is identical with the name or the common seal of the Institute or so nearly resembles it so as to deceive or as is likely to deceive the public; or

(*b*) award any degree, diploma or certificate or bestow any designation which indicates or purports to indicate the position or attainment of any qualification or competence in actuaryship similar to that of a member of the Institute; or

(*c*) seek to regulate in any manner whatsoever the profession of Actuaries.

(*2*) Any person contravening the provisions of sub-section (*1*) shall, without prejudice to any other proceedings, which may be taken against him, be punishable with fine, which may extend on first conviction to fifty thousand rupees and on any subsequent conviction with imprisonment which may extend to one year, or, with fine which may extend to one lakh rupees, or with both.

(*3*) Nothing contained in this section shall apply to any University or other institution established by law or to any body affiliated to the Institute.

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39. (*1*) No company, whether incorporated in India or elsewhere, shall practice as Actuaries. Companies not to engage in actuarial practice.

(*2*) Any company contravening the provisions of sub-section (*1*) shall be punishable on first conviction with fine which may extend to ten thousand rupees, and on any subsequent conviction with fine which may extend to twenty-five thousand rupees.

40. (*1*) No person other than a fellow member of the Institute shall sign any document on behalf of an Actuary in practice or a firm of such Actuaries in his or its professional capacity. Unqualified person not to sign documents.

(*2*) Any person contravening the provisions of sub-section (*1*) shall, without prejudice to any other proceedings which may be taken against him, be punishable on first conviction with fine which may extend to fifty thousand rupees, and on any subsequent conviction with imprisonment which may extend to one year, or with fine which may extend to one lakh rupees, or with both.

41. (*1*) If the person committing an offence under this Act is a company, the company as well as every person in charge of, and responsible to, the company for the conduct of its business at the time of the commission of the offence shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly: Offences by companies.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(*2*) Notwithstanding anything contained in sub-section (*1*), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or that the commission of the offence is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section—

(*a*) "company" means any body corporate and includes a firm or other association of individuals; and

(*b*) "director", in relation to a firm, means a partner in the firm.

42. No person shall be prosecuted under this Act except on a complaint made by or under the order of the Council or of the Central Government. Sanction to prosecute.

CHAPTER VII

QUALITY REVIEW BOARD

43. (*1*) The Central Government shall, by notification, constitute a Quality Review Board consisting of a Chairperson and not more than four Members: Establishment of Quality Review Board.

Provided that in case the Board is constituted with two Members, one each shall be nominated by the Council and the Central Government, respectively.

(*2*) The Chairperson and Members of the Board shall be appointed from amongst the persons of eminence having experience in the field of law, education, economics, business, finance, accountancy or public administration.

(*3*) Two Members of the Board shall be nominated by the Council and other two Members shall be nominated by the Central Government.

44. The Board shall perform the following functions, namely:— Functions of Board.

(*a*) to fix standards for the services provided by the members of the Institute;

(*b*) to review the quality of services provided by the members of the Institute including actuarial audit services; and

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(*c*) to guide the members of the Institute to improve the quality of services and adherence to the various statutory and other regulatory requirements.

Procedure of Board.

45. The Board shall follow in its meeting and in discharging its functions such procedure as may be prescribed.

Terms and conditions of Chairperson and Members of Board.

46. The terms and conditions of service of the Chairperson and the Members of the Board, their place of meetings, remuneration and allowances shall be such as may be prescribed.

Expenditure of Board.

47. The expenditure of the Board shall be borne by the Council.

CHAPTER VIII

DISSOLUTION OF THE ACTUARIAL SOCIETY OF INDIA REGISTERED UNDER THE SOCIETIES REGISTRATION ACT

Dissolution of Actuarial Society of India.

48. On the appointed day,—

(*a*) the Society known as the Actuarial Society of India registered under the Societies Registration Act, 1860 and the Bombay Public Trusts Act, 1950 shall stand dissolved and thereafter no person shall make, assert or take any claims or demands or proceedings against the dissolved society or against any officer thereof in his capacity as such officer except in so far as may be necessary, for enforcing the provisions of this Act; 21 of 1860. Bombay Act XXXIX of 1950.

(*b*) the right of every member to, or in respect of, the dissolved society shall be extinguished, and thereafter no member of the society shall make, assert or take any claims or demands or proceedings in respect of that society except as provided in this Act.

Provisions respecting employees of dissolved society.

49. (*1*) Every person employed in the dissolved society and continuing in its employment immediately before the commencement of this Act shall, as from such commencement, become an employee of the Institute, shall hold his office or service therein by the same tenure and upon the same terms and conditions and with the same rights and privileges as to retirement benefits as he would have held the same under the dissolved society if this Act had not been passed, and shall, continue to do so unless and until his employment in the Institute is terminated or until his remuneration, terms and conditions of employment are duly altered by the Institute.

(*2*) Notwithstanding anything contained in the Industrial Disputes Act, 1947 or in any other law for the time being in force, the transfer of the services of any employee of the dissolved society to the Institute shall not entitle any such employee to any compensation under that Act or other law, and no such claims shall be entertained by any court, tribunal or other authority. 14 of 1947.

CHAPTER IX

MISCELLANEOUS

Maintenance of more than one offices by Actuary.

50. (*1*) Where an Actuary in practice or a firm of such Actuaries has more than one offices within or outside India, each one of such offices shall be in the separate charge of a fellow member of the Institute:

Provided that the Council may in suitable cases exempt any Actuary in practice or firm of such Actuaries from the operation of this sub-section.

(*2*) Every Actuary in practice or a firm of such Actuaries maintaining more than one office shall send to the Council a list of offices and the person in charge thereof and shall keep the Council informed of any changes in relation thereto.

Reciprocity.

51. (*1*) Where any country, notified by the Central Government in this behalf in the Official Gazette, prevents persons of Indian domicile from becoming members of any

institution similar to the Institute or from practicing the profession of Actuaries or subjects them to unfair discrimination in that country, no subject of any such country shall be entitled to become a member of the Institute or practice the profession of Actuaries in India.

(*2*) Subject to the provisions of sub-section (*1*), the Council may specify the conditions, if any, subject to which foreign qualifications relating to actuarial science shall be recognised for the purposes of entry in the register.

Power of Central Government to issue directions.

52. (*1*) For the purposes of this Act, the Central Government may, from time to time, give to the Council such general or special directions as it thinks fit, and the Council shall, in the discharge of its functions under this Act, comply with such directions.

(*2*) If, in the opinion of the Central Government, the Council has persistently made default in giving effect to the directions issued under sub-section (*1*), it may, after giving an opportunity of being heard to the Council, by notification, dissolve the Council, whereafter a new Council shall be constituted in accordance with the provisions of this Act with effect from such date as may be decided by the Central Government.

(*3*) Where the Central Government has issued a notification under sub-section (*2*) dissolving the Council, it may, pending the constitution of a new Council in accordance with the provisions of this Act, authorise any person or body of persons to take over the management of the affairs of the Council and to exercise such functions as may be mentioned in the notification.

Protection of action taken in good faith.

53. No suit, prosecution or other legal proceeding shall lie against the Central Government or the Council or the Disciplinary Committee or the Tribunal or the Authority or the Board or the Prosecution Director or any officer of that Government, Council, Committee, Tribunal, Authority or Board, for anything which is in good faith done or intended to be done under this Act or any rule, regulation, notification, direction or order made thereunder.

Members, etc., to be public servants.

54. The Chairperson, Presiding Officer, Members and other officers and employees of the Authority, Tribunal and Board, and the Prosecution Director shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code. 45 of 1860.

Power of Central Government to make rules.

55. (*1*) The Central Government may, by notification, make rules to carry out the provisions of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) the manner of election and nomination in respect of members to the Council under sub-section (*2*) of section 12;

(*b*) the terms and conditions of service of the Presiding Officers and Members of the Tribunal, place of meeting, remuneration and allowances to be paid to them under sub-section (*3*) of section 16;

(*c*) the procedure of inquiry and submission of report by the Disciplinary Committee under sub-section (*2*) of section 26;

(*d*) the procedure of inquiry by the Prosecution Director under sub-section (*2*) of section 27;

(*e*) any act or omission which may be determined as professional misconduct under section 31;

(*f*) the procedure to be followed by the Board in its meetings and discharging its functions under section 45; and

(*g*) terms and conditions of service of the Chairman and Members of the Board under section 46.

Power to make regulations.

56. (*1*) The Council may, with the previous approval of the Central Government and subject to the previous publication, by notification in the Official Gazette, make regulations to carry out the provisions of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(*a*) the examination and training for the purposes of clauses (*b*), (*c*) and (*d*) of sub-section (*1*) of section 6;

(*b*) the manner of making an application under sub-section (*3*) of section 6;

(*c*) the fees payable under sub-section (*3*) of section 6, sub-section (*2*) of section 9, clause (*a*) of sub-section (*2*) of section 19, sub-section (*4*) of section 23;

(*d*) the manner in which the honorary member may be chosen under sub-section (*1*) of section 8;

(*e*) the terms and conditions on which an affiliate member may be admitted under sub-section (*2*) of section 8;

(*f*) the academic qualifications for admission of a student member under sub-section (*3*) of section 8;

(*g*) qualifications required for a certificate of practice under sub-section (*1*) and the form in which an application may be made under sub-section (*2*) of section 9;

(*h*) the transaction of business by the Council for the discharge of its functions mentioned in sub-section (*2*) of section 19;

(*i*) terms and conditions of the services under sub-section (*1*) of section 20;

(*j*) the functions and conditions of the committees under sub-section (*3*) of section 21;

(*k*) the manner in which the register of the members of the Institute and other particulars to be maintained under sub-sections (*1*) and (*2*) of section 23;

(*l*) the manner in which the annual list of members of the Institute may be published under sub-section (*3*) of section 23;

(*m*) the conditions and requirements and payment of fee for re-entry in the register under section 25;

(*n*) salaries and allowances and conditions of service of the officers and other staff members of the Authority under sub-section (*2*) of section 35;

(*o*) the conditions subject to which foreign qualifications may be recognised under sub-section (*2*) of section 51; and

(*p*) any other matter which is required to be, or may be, prescribed under this Act.

Power of Central Government to issue directions for making or amending regulations.

57. (*1*) Where the Central Government considers it expedient so to do, it may, by order in writing, direct the Council to make any regulations or to amend or revoke any regulations already made within such period as it may specify in this behalf.

(*2*) If the Council fails or neglects to comply with such order within the specified period, the Central Government may itself make the regulations or amend or revoke the regulations made by the Council.

58. Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall, thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation. Laying of rules and regulations.

59. (*1*) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as may appear to be necessary for removing the difficulty: Power to remove difficulties.

Provided that no such order shall be made under this section after the expiry of a period of two years from the commencement of this Act.

(*2*) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

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THE SCHEDULE

(*See* section 31)

PART I

Professional misconduct in relation to members of the Institute in practice

An Actuary in practice shall be deemed to be guilty of professional misconduct, if he—

(*1*) allows any person to practice in his name as an actuary unless such person is also an actuary in practice and is in partnership with or employed by himself; or

(*2*) pays by way of remuneration to an employee, pays or allows or agrees to pay or allow, directly or indirectly, any share, commission or brokerage in the fees or profits of his professional business, to any person other than a member of the Institute or a partner or a retired partner or the legal representative of a deceased partner; or

(*3*) enters into partnership with any person other than an Actuary in practice or a person resident outside India who but for his residence abroad would be entitled to be admitted as a member under clause (*c*) of sub-section (*1*) of section 6 or whose qualifications are recognised by the Central Government or the Council for the purpose of permitting such partnership, provided the Actuary shares in the fees or profits of the business of the partnership both within and outside of India; or

(*4*) secures either through the services of a person who is not an employee of such Actuary or who is not qualified to be his partner or by means which are not open to an Actuary, any professional business; or

(*5*) accepts an assignment as Actuary previously held by another Actuary without first communicating with him in writing; or

(*6*) charges or offers to charge, accepts or offers to accept in respect of any professional employment fees which are based on a percentage of profit or which are contingent upon the findings or results of such employment, except as permitted under any regulation made under this Act; or

(*7*) engages in any business or occupation other than the profession of Actuaries unless permitted by the Council so to engage:

Provided that nothing contained herein shall disentitle an Actuary from being a director of a company; or

(*8*) accepts a position as an actuary previously held by some other Actuary in practice in such conditions as to constitute undercutting; or

(*9*) allows a person not being a member of the Institute in practice, or a member not being his partner to sign on his behalf or on behalf of his firm, any valuation report or financial statement; or

(*10*) discloses information acquired in the course of his professional engagement to any person other than his client so engaging him, without the consent of such client, or otherwise than as required by any law for the time being in force; or

(*11*) certifies or submits in his name, or in the name of his firm, a valuation report or a financial statement unless the examination of such statement and the related records has been made by him or by a partner or an employee in his firm or by another Actuary in practice; or

(*12*) expresses his opinion or valuation reports or financial statements of any business or any enterprise in which he, his firm, or a partner in his firm has a substantial interest, unless he has disclosed the interest also in his report; or

(*13*) fails to disclose a material fact known to him in a valuation report or a financial statement, but disclosures of which is necessary to make the valuation report or the financial statement not misleading where he is concerned with such valuation report or the financial statement in a professional capacity; or

(*14*) fails to report a material misstatement known to him to appear in a valuation report or financial statement with which he is concerned in a professional capacity; or

(*15*) is grossly negligent in the conduct of his professional duties; or

(*16*) fails to obtain sufficient information to warrant the formation of an opinion in regard to any matter contained in any valuation report or financial statement prepared by him or on his behalf; or

(*17*) fails to invite attention to any material departure from the generally accepted procedure or professional work applicable to the circumstances, in any valuation report or financial statement prepared by him or on his behalf.

PART II

Professional misconduct in relation to the members of the Institute in service

A member of the Institute (other than a member in practice) shall be deemed to be guilty of professional misconduct, if he being an employee of any company, firm or person,—

(*1*) pays or allows or agrees to pay directly or indirectly to any person any share in the emoluments of the employment undertaken by him; or

(*2*) accepts or agrees to accept any part of fees, profits or gains by way of commission or gratification; or

(*3*) discloses confidential information acquired in the course of his employment except as and when required by law or except as permitted by his employer.

PART III

Professional misconduct in relation to members of the Institute generally

A member of the Institute, whether in practice or not, shall be deemed to be guilty of professional misconduct, if he—

(*1*) includes in any statement, return or form to be submitted to the Council any particulars knowing them to be false; or

(*2*) not being a fellow member of the Institute acts himself as a fellow member of the Institute; or

(*3*) does not supply the information called for or does not comply with the requirements asked for by the Council or any of its Committees; or

(*4*) contravenes any of the provisions of this Act or the regulations made thereunder or any guidelines issued by the Council under clause (*i*) of sub-section (*2*) of section 19; or

(*5*) is guilty of such other act or omission as may be specified by the Council.

PART IV

Other misconduct in relation to member of the Institute generally.

A member of the Institute, whether in practice or not, shall be deemed to be guilty of other misconduct, if—

(*A*) (*1*) he is held guilty by any civil or criminal court for an offence which is punishable with imprisonment for a term not exceeding six months;

(*2*) in the opinion of the Council, he brings disrepute to the profession or the Institute as result of his action whether or not related to his professional work;

(*B*) he is held guilty by any civil or criminal court for an offence which is punishable with imprisonment for a term exceeding six months.

Sd/-
Dr. K. N. CHATURVEDI,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

H. D. VYAS,
Secretary to Government.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.

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Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART VI

Acts of Parliament and Ordinances promulgated by the President

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 29th January, 2007.

No. RPB/13-2007/Act-43-06/E .— The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 14th September, 2006/Bhadra 23, 1928 (Saka)

The following Act of Parliament has received the assent of the President on the 13th September, 2006, is hereby published for general information :-

THE PROTECTION OF HUMAN RIGHTS (AMENDMENT) ACT, 2006

AN ACT

(Act No. 43 of 2006) (13th September, 2006)

further to amend the Protection of Human Rights Act, 1993.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

Short title and commence-ment.

1. (*1*) This Act may be called the Protection of Human Rights (Amendment) Act, 2006.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

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Amendment of section 2.

2. In section 2 of the Protection of Human Rights Act, 1993 (hereinafter referred to as the principal Act), in sub-section (*1*),— 10 of 1994.

(*a*) for clause (*f*), the following clause shall be substituted, namely:—

'(*f*) "International Covenants" means the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights adopted by the General Assembly of the United Nations on the 16th December, 1966 and such other Covenant or Convention adopted by the General Assembly of the United Nations as the Central Government may, by notification, specify;';

(*b*) for clause (*g*), the following clause shall be substituted, namely:—

'(*g*) "Member" means a Member of the Commission or of the State Commission, as the case may be;';

(*c*) for clause (*i*), the following clauses shall be substituted, namely:—

'(*i*) "National Commission for the Scheduled Castes" means the National Commission for the Scheduled Castes referred to in article 338 of the Constitution;

(*ia*) "National Commission for the Scheduled Tribes" means the National Commission for the Scheduled Tribes referred to in article 338A of the Constitution;'.

Amendment of section 3.

3. In section 3 of the principal Act,—

(*a*) in sub-section (*3*), for the words "the National Commission for the Scheduled Castes and Scheduled Tribes", the words "the National Commission for the Scheduled Castes, the National Commission for the Scheduled Tribes" shall be substituted;

(*b*) in sub-section (*4*), for the words "as it may delegate to him", the brackets, words, figures and letter "(except judicial functions and the power to make regulations under section 40B) as may be delegated to him by the Commission or the Chairperson, as the case may be" shall be substituted.

Amendment of section 4.

4. In section 4 of the principal Act,—

(*a*) in sub-section (*1*), for the words "other Members", the words "the Members" shall be substituted;

(*b*) in sub-section (*2*), for the words "vacancy in the Committee", the words, brackets and figure "vacancy of any member in the Committee referred to in the first proviso to sub-section (*1*)" shall be substituted.

Substitution of new section for section 5.

5. For section 5 of the principal Act, the following section shall be substituted, namely:—

Resignation and removal of Chairperson and Members.

"5. (*1*) The Chairperson or any Member may, by notice in writing under his hand addressed to the President of India, resign his office.

(*2*) Subject to the provisions of sub-section (*3*), the Chairperson or any Member shall only be removed from his office by order of the President of India on the ground of proved misbehaviour or incapacity after the Supreme Court, on reference being made to it by the President, has, on inquiry held in accordance with the procedure prescribed in that behalf by the Supreme Court, reported that the Chairperson or the Member, as the case may be, ought on any such ground to be removed.

(*3*) Notwithstanding anything in sub-section (*2*), the President may, by order, remove from office the Chairperson or any Member if the Chairperson or such Member, as the case may be,—

(*a*) is adjudged an insolvent; or

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(*b*) engages during his term of office in any paid employment outside the duties of his office; or

(*c*) is unfit to continue in office by reason of infirmity of mind or body; or

(*d*) is of unsound mind and stands so declared by a competent court; or

(*e*) is convicted and sentenced to imprisonment for an offence which in the opinion of the President involves moral turpitude.".

6. For section 6 of the principal Act, the following section shall be substituted, namely:— Substitution of new section for section 6.

"6. (*1*) A person appointed as Chairperson shall hold office for a term of five years from the date on which he enters upon his office or until he attains the age of seventy years, whichever is earlier. Term of office of Chairperson and Members.

(*2*) A person appointed as a Member shall hold office for a term of five years from the date on which he enters upon his office and shall be eligible for re-appointment for another term of five years:

Provided that no Member shall hold office after he has attained the age of seventy years.

(*3*) On ceasing to hold office, a Chairperson or a Member shall be ineligible for further employment under the Government of India or under the Government of any State.".

7. For section 8 of the principal Act, the following section shall be substituted, namely:— Substitution of new section for section 8.

"8. The salaries and allowances payable to, and the other terms and conditions of service of, the Chairperson and Members shall be such as may be prescribed: Terms and conditions of service of Chairperson and Members.

Provided that neither the salary and allowances nor the other terms and conditions of service of the Chairperson or a Member shall be varied to his disadvantage after his appointment.".

8. In section 10 of the principal Act, for sub-section (*2*), the following sub-section shall be substituted, namely:— Amendment of section 10.

"(*2*) Subject to the provisions of this Act and the rules made thereunder, the Commission shall have the power to lay down by regulations its own procedure.".

9. In section 12 of the principal Act,— Amendment of section 12.

(*a*) in clause (*a*), after the words "or any person on his behalf", the words "or on a direction or order of any court" shall be inserted;

(*b*) for clause (*c*), the following clause shall be substituted, namely:—

"(*c*) visit, notwithstanding anything contained in any other law for the time being in force, any jail or other institution under the control of the State Government, where persons are detained or lodged for purposes of treatment, reformation or protection, for the study of the living conditions of the inmates thereof and make recommendations thereon to the Government;".

10. In section 13 of the principal Act, after sub-section (*5*), the following sub-sections shall be inserted, namely:— Amendment of section 13.

"(*6*) Where the Commission considers it necessary or expedient so to do, it may, by order, transfer any complaint filed or pending before it to the State Commission of

the State from which the complaint arises, for disposal in accordance with the provisions of this Act:

Provided that no such complaint shall be transferred unless the same is one respecting which the State Commission has jurisdiction to entertain the same.

(7) Every complaint transferred under sub-section (6) shall be dealt with and disposed of by the State Commission as if it were a complaint initially filed before it.".

Substitution of new section for section 18.

11. For section 18 of the principal Act, the following section shall be substituted, namely:—

Steps during and after inquiry.

"18. The Commission may take any of the following steps during or upon the completion of an inquiry held under this Act, namely:—

(a) where the inquiry discloses the commission of violation of human rights or negligence in the prevention of violation of human rights or abetment thereof by a public servant, it may recommend to the concerned Government or authority—

(i) to make payment of compensation or damages to the complainant or to the victim or the members of his family as the Commission may consider necessary;

(ii) to initiate proceedings for prosecution or such other suitable action as the Commission may deem fit against the concerned person or persons;

(iii) to take such further action as it may think fit;

(b) approach the Supreme Court or the High Court concerned for such directions, orders or writs as that Court may deem necessary;

(c) recommend to the concerned Government or authority at any stage of the inquiry for the grant of such immediate interim relief to the victim or the members of his family as the Commission may consider necessary;

(d) subject to the provisions of clause (e), provide a copy of the inquiry report to the petitioner or his representative;

(e) the Commission shall send a copy of its inquiry report together with its recommendations to the concerned Government or authority and the concerned Government or authority shall, within a period of one month, or such further time as the Commission may allow, forward its comments on the report, including the action taken or proposed to be taken thereon, to the Commission;

(f) the Commission shall publish its inquiry report together with the comments of the concerned Government or authority, if any, and the action taken or proposed to be taken by the concerned Government or authority on the recommendations of the Commission.".

12. In section 21 of the principal Act,— Amendment of section 21.

(*a*) for sub-section (*2*), the following sub-section shall be substituted, namely:—

"(*2*) The State Commission shall, with effect from such date as the State Government may by notification specify, consist of—

(*a*) a Chairperson who has been a Chief Justice of a High Court;

(*b*) one Member who is, or has been, a Judge of a High Court or District Judge in the State with a minimum of seven years experience as District Judge;

(*c*) one Member to be appointed from among persons having knowledge of or practical experience in matters relating to human rights.";

(*b*) after sub-section (*5*), the following sub-section shall be inserted, namely:—

"(*6*) Two or more State Governments may, with the consent of a Chairperson or Member of a State Commission, appoint such Chairperson or, as the case may be, such Member of another State Commission simultaneously if such Chairperson or Member consents to such appointment:

Provided that every appointment made under this sub-section shall be made after obtaining the recommendations of the Committee referred to in sub-section (*1*) of section 22 in respect of the State for which a common Chairperson or Member, or both, as the case may be, is to be appointed.".

13. In section 22 of the principal Act,— Amendment of section 22.

(*a*) in the marginal heading for the words "other Members", the word "Members" shall be substituted;

(*b*) in sub-section (*1*), for the words "other Members", the word "Members" shall be substituted;

(*c*) in sub-section (*2*), for the words "any vacancy in the Committee", the words, brackets and figure "any vacancy of any Member in the Committee referred to in sub-section (*1*)" shall be substituted.

14. In section 23 of the principal Act,— Amendment of section 23.

(*a*) for the marginal heading "Removal of a Member of the State Commission", the marginal heading "Resignation and Removal of Chairperson or a Member of the State Commission" shall be substituted;

(*b*) for sub-section (*1*), the following sub-sections shall be substituted, namely:—

"(*1*) The Chairperson or a Member of a State Commission may, by notice in writing under his hand addressed to the Governor, resign his office.

(*1A*) Subject to the provisions of sub-section (*2*), the Chairperson or any Member of the State Commission shall only be removed from his office by order of the President on the ground of proved misbehaviour or incapacity after the Supreme Court, on a reference being made to it by the President, has, on inquiry held in accordance with the procedure prescribed in that behalf by the Supreme Court, reported that the Chairperson or such Member, as the case may be, ought on any such ground to be removed.";

(*c*) in sub-section (*2*),—

(*a*) for the word, brackets and figure "sub-section (*1*)", the word, brackets, figure and letter "sub-section (*1A*)" shall be substituted;

(*b*) for the words "other Member" at both the places where they occur, the word "Member" shall be substituted.

Substitution of new section for section 24.

15. For section 24 of the principal Act, the following section shall be substituted, namely:—

Term of office of Chairperson and Members of the State Commission.

"24. (*1*) A person appointed as Chairperson shall hold office for a term of five years from the date on which he enters upon his office or until he attains the age of seventy years, whichever is earlier.

(*2*) A person appointed as a Member shall hold office for a term of five years from the date on which he enters upon his office and shall be eligible for re-appointment for another term of five years:

Provided that no Member shall hold office after he has attained the age of seventy years.

(*3*) On ceasing to hold office, a Chairperson or a Member shall be ineligible for further employment under the Government of a State or under the Government of India.".

Substitution of new section for section 26.

16. For section 26 of the principal Act, the following section shall be substituted, namely:—

Terms and conditions of service of Chairperson and Members of State Commissions.

"26. The salaries and allowances payable to, and other terms and conditions of service of, the Chairperson and Members shall be such as may be prescribed by the State Government:

Provided that neither the salary and allowances nor the other terms and conditions of service of the Chairperson or a Member shall be varied to his disadvantage after his appointment.".

Amendment of section 40.

17. In section 40 of the principal Act, in sub-section (*2*), in clause (*a*), for the word "Members", the words "Chairperson and Members" shall be substituted.

Insertion of new section 40B.

18. After section 40A of the principal Act, the following section shall be inserted, namely:—

Power of Commission to make regulations.

"40B. (*1*) Subject to the provisions of this Act and the rules made thereunder, the Commission may, with the previous approval of the Central Government, by notification, make regulations to carry out the provisions of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(*a*) the procedure to be followed by the Commission under sub-section (*2*) of section 10;

(*b*) the returns and statistics to be furnished by the State Commissions;

(*c*) any other matter which has to be, or may be, specified by regulations.

(*3*) Every regulation made by the Commission under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session or the successive sessions aforesaid, both Houses agree in making any modification in the regulation or both Houses agree that the regulation should not be made, the regulation shall

thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation.".

19. In section 41 of the principal Act, in sub-section (*2*), in clause (*a*), for the words "the Members", the words "the Chairperson and Members" shall be substituted. **Amendment of section 41.**

Sd/-
K. N. CHATURVEDI,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

H. D. VYAS,
Secretary to Government.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.

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Extra No. 3

REGISTERED No. G/GNR/2

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The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

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Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar.29th January, 2007.

No. RPB/10-2007/Act-40-06/E :— The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 12th September, 2006/Bhadra 21, 1928 (Saka)

The following Act of Parliament received the assent of the President on the 12th September, 2006 is hereby published for general information :-

THE SALARY, ALLOWANCES AND PENSION OF MEMBERS OF PARLIAMENT (AMENDMENT) ACT, 2006.

AN ACT

(Act No. 40 of 2006) (12th September, 2006)

further to amend the Salary, Allowances and Pension of Members of Parliament Act, 1954.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

1. (*1*) This Act may be called the Salary, Allowances and Pension of Members of Parliament (Amendment) Act, 2006. Short title and commencement.

(*2*) Save as otherwise provided, it shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for different provisions of this Act.

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Amendment of section 3.

2. In section 3 of the Salary, Allowances and Pension of Members of Parliament Act, 1954 (hereinafter referred to as the principal Act), — 30 of 1954.

(*a*) for the words "at the rate of four thousand rupees per mensem", the words "at the rate of sixteen thousand rupees per mensem" shall be substituted;

(*b*) for the words "at the rate of four hundred rupees for each day", the words "at the rate of one thousand rupees for each day" shall be substituted;

(*c*) for the second and third provisos, the following proviso shall be substituted, namely: —

"Provided further that the rates of salary and allowance specified in this section shall be applicable for a period of five years from the 14th day of September, 2006 or until it is refixed, whichever is later.".

Amendment of section 4.

3. In section 4 of the principal Act, in sub-section (*1*), —

(*a*) in clause (*c*), in sub-clause (*ii*), for the words "at the rate of eight rupees per kilometre", the words "at the rate of thirteen rupees per kilometre" shall be substituted;

(*b*) after the second proviso, and before the *Explanation,* the following proviso shall be inserted, namely: —

"Provided also that the rate specified in sub-clause (*ii*) of clause (*c*) of this sub-section shall be applicable for a period of five years from the date of commencement of the Salary, Allowances and Pension of Members of Parliament (Amendment) Act, 2006.";

(*c*) in sub-section (*2*), after the second proviso, the following proviso shall be inserted, namely:—

"Provided also that the first proviso shall not be applicable to a member who, in the opinion of the Chairman of the Council of States or, as the case may be, the Speaker of the House of the People, is so incapacitated physically and cannot travel by air or train.".

Amendment of section 5.

4. In section 5 of the principal Act,—

(*a*) in sub-section (*1A*), for the words "seven days", the words "five days" shall be substituted;

(*b*) in sub-section (*2*),—

(*i*) for the first proviso, the following proviso shall be substituted, namely:—

"Provided that the total number of such journeys under this sub-section shall be thirty-four journeys per year:";

(*ii*) in the second proviso, for the words "less than thirty-two", the words "less than thirty-four" shall be substituted;

(*iii*) in the third proviso, for the words "thirty-two journeys", the words "thirty-four journeys" shall be substituted;

(*iv*) after the third proviso, the following proviso shall be inserted, namely:—

"Provided also that in case any member avails a total number of journeys by air more than thirty-four, such journeys permissible to him, in the year, he may be allowed to adjust not exceeding eight such journeys from the entitled number of journeys which may accrue in his credit in the next following year.";

(*c*) after sub-section (*2*) and before *Explanation* I, the following sub-section shall be inserted, namely:—

"(*3*) Notwithstanding anything contained in sub-section (*2*), there shall be paid to a member who, in the opinion of the Chairman of the Council of States or, as the case may be, the Speaker of the House of the People, is so incapacitated physically and therefore cannot perform air or train journey, road mileage for the entire road journey.";

(*d*) in *Explanation* III, for the words "thirty-two journeys", the words "thirty-four journeys" shall be substituted.

Amendment of section 6D.

5. In section 6D of the principal Act, after clause (*ii*), the following clause shall be added and shall be deemed to have been added with effect from the 17th day of May, 2004, namely:—

"(*iii*) by road as is referred to in section 4 or section 5, be entitled to an amount equal to one road mileage.".

Amendment of section 7.

6. In section 7 of the principal Act, for the words "seven days", the words "five days" shall be substituted.

Amendment of section 8A.

7. In section 8A of the principal Act,—

(*a*) for sub-section (*1*) and the proviso thereto, the following shall be substituted, namely:—

"(*1*) With effect from the commencement of the Salary, Allowances and Pension of Members of Parliament (Amendment) Act, 2006, there shall be paid a pension of eight thousand rupees per mensem to every person who has served for any period as a member of the Provisional Parliament or either House of Parliament:

Provided that where a person has served as a member of the Provisional Parliament or either House of Parliament for a period exceeding five years, there shall be paid to him an additional pension of eight hundred rupees per mensem for every year served in excess of five years.";

(*b*) sub-section (*1A*) and the *Explanation* thereunder shall be omitted.

Amendment of section 8AA.

8. Section 8AA of the principal Act shall be numbered as sub-section (*1*) thereof and after sub-section (*1*) as so numbered, the following sub-section shall be inserted, namely:—

"(*2*) Every person who is not a sitting member but has served for any period as a member from the Andaman and Nicobar Islands or the Lakshadweep, shall be entitled to travel by the highest class of accommodation in any steamer sailing between the Andaman and Nicobar Islands or, as the case may be, the Lakshadweep and the main land territory of India in addition to the facilities available to such member under sub-section (*1*), without payment of any charges on the basis of an authorisation issued for this purpose by the Secretariat of either House of Parliament.".

Insertion of new section 8AC.

9. After section 8AB of the principal Act, the following section shall be inserted, namely:—

Family pension.

'8AC. (*1*) On the death of a member of either House of Parliament during his term of office, his spouse, if any, or dependent of such member shall be paid during the remaining period of life of such spouse or, as the case may be, such dependent so long as such dependent continues to be a dependent within the meaning of clause (*aa*) of section 2, family pension equivalent to one-half of the pension which such member of Parliament would have received had he retired:

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Provided that no such family pension shall be payable to a dependent if such dependent is a sitting member of Parliament or is drawing pension under section 8A.

(*2*) The family pension payable under sub-section (*1*) shall also be payable to the spouse or dependent of a person who was a member of either House of Parliament or the Provisional Parliament at any time before the commencement of the Salary, Allowances and Pension of Members of Parliament (Amendment) Act, 2006 and died after serving as such member:

Provided that such spouse or dependent is not drawing any pension under this Act or is not entitled to draw family pension under the proviso to sub-section (*1*):

Provided further that no person shall be entitled to claim arrears of any family pension under this sub-section in respect of a period before the commencement of the Salary, Allowances and Pension of Members of Parliament (Amendment) Act, 2006.

Explanation.— For the purposes of this section, "Provisional Parliament" shall include the body which functioned as the Constituent Assembly of the Dominion of India immediately before the commencement of the Constitution.'.

Sd/-
K. N. CHATURVEDI,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

H. D. VYAS,
Secretary to Government.

Government Central Press, Gandhinagar.

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PART VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 29th January, 2007.

No. RPB/15-2007/Act-45-06/E :—The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

(LEGISLATIVE DEPARTMENT)

New Delhi, the 26th September, 2006/Bhadra 28, 1928 (Saka)

The following Act of Parliament has received the assent of the President on the 25th September, 2006 is hereby published for general information :-

THE BANKING COMPANIES (ACQUISITION AND TRANSFER OF UNDERTAKINGS) AND FINANCIAL INSTITUTIONS LAWS (AMENDMENT) ACT, 2006.

AN ACT

(Act No. 45 of 2006) (25th September, 2006)

further to amend the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, *the Banking Companies (Acquisition and Transfer of Undertakings) Act,* 1980, *the State Bank of India Act,* 1955, *the State Bank of India (Subsidiary Banks) Act,* 1959, *the Deposit Insurance and Credit Guarantee Corporation Act,* 1961, *the Export-Import Bank of India Act,* 1981 *and the National Housing Bank Act,* 1987.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title and commencement.

1. (*1*) This Act may be called the Banking Companies (Acquisition and Transfer of Undertakings) and Financial Institutions Laws (Amendment) Act, 2006.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act and any reference in such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

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CHAPTER II

AMENDMENTS TO THE BANKING COMPANIES (ACQUISITION AND TRANSFER OF UNDERTAKINGS) ACT, 1970

Amendment of section 3.

2. In section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (hereafter in this Chapter referred to as the Bank Nationalisation Act),— 5 of 1970.

(a) in sub-section *(2B)*, for clause *(c)*, the following shall be substituted, namely:—

"*(c)* such amounts as the Board of Directors of the corresponding new bank may, after consultation with the Reserve Bank and with the previous sanction of the Central Government, raise whether by public issue or preferential allotment or private placement, of equity shares or preference shares in accordance with the procedure as may be prescribed, so, however, that the Central Government shall, at all times hold not less than fifty-one per cent. of the paid-up capital consisting of equity shares of each corresponding new bank:

Provided that the issue of preference shares shall be in accordance with the guidelines framed by the Reserve Bank specifying the class of preference shares, the extent of issue of each class of such preference shares (whether perpetual or irredeemable or redeemable) and the terms and conditions subject to which, each class of preference shares may be issued.";

(b) in sub-sections *(2BB)* and *(2BBA)*, for the words "raised by public issue", the words "raised by public issue or preferential allotment or private placement" shall be substituted;

(c) in sub-section *(2C)*, for the words "raised by public issue", the words "raised from public by public issue or preferential allotment or private placement" shall be substituted;

(d) in sub-section *(2E)*, the following provisos shall be inserted, namely:—

"Provided that the shareholder holding any preference share capital in the corresponding new bank shall, in respect of such capital, have a right to vote only on resolutions placed before such corresponding new bank which directly affects the rights attached to his preference shares:

Provided further that no preference shareholder shall be entitled to exercise voting rights in respect of preference shares held by him in excess of one per cent. of the total voting rights of all the shareholders holding preference share capital only.".

Amendment of section 9.

3. In section 9 of the Bank Nationalisation Act,—

(*a*) in sub-section (*2*), after clause (*c*), the following clause shall be inserted, namely:—

"(*ca*) the manner in which the excess number of directors shall retire under second proviso to clause (*i*) of sub-section (*3*);";

(*b*) in sub-section (*3*),—

(*i*) in clause (*a*), for the words "not more than two whole-time directors", the words "not more than four whole-time directors" shall be substituted;

(ii) for clause (*c*), the following clause shall be substituted, namely:—

"*(c)* one director, possessing necessary expertise and experience in matters relating to regulation or supervision of commercial banks, to be nominated by the Central Government on the recommendation of the Reserve Bank;";

(iii) clause (*d*) shall be omitted;

(*iv*) for clause (*i*), the following shall be substituted, namely:—

"(*i*) where the capital issued under clause (*c*) of sub-section (*2B*) of section 3 is —

(*I*) not more than sixteen per cent. of the total paid-up capital, one director;

(*II*) more than sixteen per cent. but not more than thirty-two per cent. of the total paid-up capital, two directors;

(*III*) more than thirty-two per cent. of the total paid-up capital, three directors,

to be elected by the shareholders, other than the Central Government, from amongst themselves:

Provided that on the assumption of charge after election of any such director under this clause, equal number of directors nominated under clause (*h*) shall retire in such manner as may be specified in the scheme:

Provided further that in case the number of directors elected, on or before the commencement of the Banking Companies (Acquisition and Transfer of Undertakings) and Financial Institutions Laws (Amendment) Act, 2006, in a corresponding new bank exceed the number of directors specified in sub-clause (*I*) or sub-clause (*II*) or sub-clause (*III*), as the case may be, such excess number of directors elected before such commencement shall retire in such manner as may be specified in the scheme and such directors shall not be entitled to claim any compensation for the premature retirement of their term of office.";

(*c*) after sub-section *(3A)*, the following sub-sections shall be inserted, namely:—

"*(3AA)* Without prejudice to the provisions of sub-section *(3A)* and notwithstanding anything to the contrary contained in this Act or in any other law for the time being in force, no person shall be eligible to be elected as director under clause *(i)* of sub-section (*3*) unless he is a person having fit and proper status based upon track record, integrity and such other criteria as the Reserve Bank may notify from time to time in this regard.

(3AB) The Reserve Bank may also specify in the notification issued under sub-section *(3AA)*, the authority to determine the fit and proper status, the manner of such determination, the procedure to be followed for such determination and such other matters as may be considered necessary or incidental thereto;";

(d) in sub-section *(3B)*, for the word, brackets, figure and letter "sub-section *(3A)*" at both the places where they occur, the words, brackets, figures and letters "sub-sections *(3A)* and *(3AA)*" shall be substituted.

4. After section 9 of the Bank Nationalisation Act, the following section shall be inserted, namely:— Insertion of new section 9A.

"9A. (*1*) If the Reserve Bank is of the opinion that in the interest of banking policy or in the public interest or in the interests of the corresponding new bank or its depositors, it is necessary so to do, it may, from time to time, by order in writing, appoint, with effect from such date as may be specified in the order, one or more persons to hold office as additional directors of the corresponding new bank. Power of Reserve Bank to appoint additional director.

(*2*) Any person appointed as an additional director in pursuance of this section—

(*a*) shall hold office during the pleasure of the Reserve Bank and subject thereto for a period not exceeding three years or such further periods not exceeding three years at a time as the Reserve Bank may specify;

(*b*) shall not incur any obligation or liability by reason only of his being a director or for anything done or omitted to be done in good faith in the execution of the duties of his office or in relation thereto; and

(*c*) shall not be required to hold qualification shares in the corresponding new bank.

(*3*) For the purpose of reckoning any proportion of the total number of directors of the corresponding new bank, any additional director appointed under this section shall not be taken into account".

Amendment of section 10A.

5. In section 10A of the Bank Nationalisation Act,—

(*a*) in sub-section (*2*), for the words "shall be entitled to discuss", the words "shall be entitled to discuss, approve and adopt" shall be substituted;

(*b*) after sub-section (*2*), the following sub-section shall be inserted, namely:—

"(*3*) Nothing contained in this section shall apply during the period for which the Board of Directors of a corresponding new bank had been superseded under sub-section (*1*) of section 18A:

Provided that the Administrator may, if he considers it appropriate in the interest of the corresponding new bank whose Board of Directors had been superseded, call annual general meeting in accordance with the provisions of this section.".

Insertion of new section 10B.

6. After section 10A of the Bank Nationalisation Act, the following section shall be inserted, namely:—

Transfer of unpaid or unclaimed dividend to Unpaid Dividend Account.

'10B. (*1*) Where, after the commencement of the Banking Companies (Acquisition and Transfer of Undertakings) and Financial Institutions Laws (Amendment) Act, 2006, a dividend has been declared by a corresponding new bank but has not been paid or claimed within thirty days from the date of declaration, to, or by, any shareholder entitled to the payment of the dividend, the corresponding new bank shall, within seven days from the date of the expiry of such period of thirty days, transfer the total amount of dividend which remains unpaid or unclaimed within the said period of thirty days, to a special account to be called "Unpaid Dividend Account of ... (the name of the corresponding new bank).".

Explanation.—In this sub-section, the expression "dividend which remains unpaid" means any dividend the warrant in respect thereof has not been encashed or which has otherwise not been paid or claimed.

(*2*) Where the whole or any part of any dividend, declared by a corresponding new bank before the commencement of the Banking Companies (Acquisition and Transfer of Undertakings) and Financial Institutions Laws (Amendment) Act, 2006, remains unpaid at such commencement, the corresponding new bank shall, within a period of six months from such commencement, transfer such unpaid amount to the account referred to in sub-section (*1*).

(*3*) Any money transferred to the Unpaid Dividend Account of a corresponding new bank in pursuance of this section which remains unpaid or unclaimed for a period of seven years from the date of such transfer, shall be transferred by the corresponding new bank to the Investor Education and Protection Fund established under sub-section (*1*) of section 205C of the Companies Act, 1956. 1 of 1956.

(*4*) The money transferred under sub-section (*3*) to the Investor Education and Protection Fund shall be utilised for the purposes and in the manner specified in section 205C of the Companies Act, 1956.'. 1 of 1956.

Insertion of new section 18A.

7. After section 18 of the Bank Nationalisation Act, the following section shall be inserted, namely:—

Supersession of Board in certain cases.

"18A. (*1*) Where the Central Government, on the recommendation of the Reserve Bank, is satisfied that in the public interest or for preventing the affairs of any corresponding new bank being conducted in a manner detrimental to the interest of the depositors or the corresponding new bank or for securing the proper management of any corresponding new bank, it is necessary so to do, the Central Government may, for reasons to be recorded in writing, by order, supersede the Board of Directors of

such corresponding new bank for a period not exceeding six months as may be specified in the order:

Provided that the period of supersession of the Board of Directors may be extended from time to time, so, however, that the total period shall not exceed twelve months.

(*2*) The Central Government may, on supersession of the Board of Directors of the corresponding new bank under sub-section (*1*), appoint, in consultation with the Reserve Bank, for such period as it may determine, an Administrator (not being an officer of the Central Government or a State Government) who has experience in law, finance, banking, economics or accountancy.

(*3*) The Central Government may issue such directions to the Administrator as it may deem appropriate and the Administrator shall be bound to follow such directions.

(*4*) Upon making the order of supersession of the Board of Directors of the corresponding new bank, notwithstanding anything contained in this Act,—

(*a*) the chairman, managing directors and other directors shall, as from the date of supersession, vacate their offices as such;

(*b*) all the powers, functions and duties which may, by or under the provisions of this Act or any other law for the time being in force, be exercised and discharged by or on behalf of the Board of Directors of such corresponding new bank, or by a resolution passed in general meeting of such corresponding new bank, shall, until the Board of Directors of such corresponding new bank is reconstituted, be exercised and discharged by the Administrator appointed by the Central Government under sub-section (*2*):

Provided that the power exercised by the Administrator shall be valid notwithstanding that such power is exercisable by a resolution passed in the general meeting of the corresponding new bank.

(*5*) The Central Government may constitute, in consultation with the Reserve Bank, a committee of three or more persons who have experience in law, finance, banking, economics or accountancy to assist the Administrator in the discharge of his duties.

(*6*) The committee shall meet at such times and places and observe such rules of procedure as may be specified by the Central Government.

(*7*) The salary and allowances payable to the Administrator and the members of the committee constituted under sub-section (*5*) by the Central Government shall be such as may be specified by the Central Government and be payable by the concerned corresponding new bank.

(*8*) On and before the expiration of two months before expiry of the period of supersession of the Board of Directors as specified in the order issued under sub-section (*1*), the Administrator of the corresponding new bank, shall call the general meeting of the corresponding new bank to elect new directors and reconstitute its Board of Directors.

(*9*) Notwithstanding anything contained in any other law or in any contract, the memorandum or articles of association, no person shall be entitled to claim any compensation for the loss or termination of his office.

(*10*) The Administrator appointed under sub-section (*2*) shall vacate office immediately after the Board of Directors of the corresponding new bank has been reconstituted.".

VI-Ex.4-2

CHAPTER III

AMENDMENTS TO THE BANKING COMPANIES (ACQUISITION AND TRANSFER OF UNDERTAKINGS) ACT, 1980

Amendment of section 3.

8. In section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 [hereafter in this Chapter referred to as the Bank (Second) Nationalisation Act],— 40 of 1980.

(*a*) in sub-section (*2B*), for clause (*c*), the following shall be substituted, namely:—

"(*c*) such amounts as the Board of Directors of the corresponding new bank may, after consultation with the Reserve Bank and with the previous sanction of the Central Government, raise whether by public issue or preferential allotment or private placement, of equity shares or preference shares in accordance with the procedure as may be prescribed, so, however, that the Central Government shall, at all times hold not less than fifty-one per cent. of the paid-up capital consisting of equity shares of each corresponding new bank:

Provided that the issue of preference shares shall be in accordance with the guidelines framed by the Reserve Bank specifying the class of preference shares, the extent of issue of each class of such preference shares (whether perpetual or irredeemable or redeemable) and the terms and conditions subject to which, each class of preference shares may be issued.";

(*b*) in sub-sections (*2BB*) and (*2BBA*), for the words "raised by public issue", the words "raised by public issue or preferential allotment or private placement" shall be substituted;

(*c*) in sub-section (*2C*), for the words "raised by public issue", the words "raised from public by public issue or preferential allotment or private placement" shall be substituted;

(*d*) in sub-section (*2E*), the following provisos shall be inserted, namely:—

"Provided that the shareholder holding any preference share capital in the corresponding new bank shall, in respect of such capital, have a right to vote only on resolutions placed before such corresponding new bank which directly affects the rights attached to his preference shares:

Provided further that no preference shareholder shall be entitled to exercise voting rights in respect of preference shares held by him in excess of one per cent. of the total voting rights of all the shareholders holding preference share capital only.".

Amendment of section 9.

9. In section 9 of the Bank (Second) Nationalisation Act,—

(*a*) in sub-section (*2*), after clause (*c*), the following clause shall be inserted, namely:—

"(*ca*) the manner in which the excess number of directors shall retire under the second proviso to clause (*i*) of sub-section (*3*);";

(*b*) in sub-section (*3*),—

(*i*) in clause (*a*), for the words "not more than two whole-time directors", the words "not more than four whole-time directors" shall be substituted;

(*ii*) for clause (*c*), the following clause shall be substituted, namely:—

"(*c*) one director, possessing necessary expertise and experience in matters relating to regulation or supervision of commercial banks, to be nominated by the Central Government on the recommendation of the Reserve Bank;";

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(*iii*) clause (*d*) shall be omitted;

(*iv*) for clause (*i*), the following shall be substituted, namely:—

"(*i*) where the capital issued under clause (*c*) of sub-section (*2B*) of section 3 is —

(*I*) not more than sixteen per cent. of the total paid-up capital, one director;

(*II*) more than sixteen per cent. but not more than thirty-two per cent. of the total paid-up capital, two directors;

(*III*) more than thirty-two per cent. of the total paid-up capital, three directors,

to be elected by the shareholders, other than the Central Government, from amongst themselves:

Provided that on the assumption of charge after election of any such director under this clause, equal number of directors nominated under clause (*h*) shall retire in such manner as may be specified in the scheme:

Provided further that in case the number of directors elected, on or before the commencement of the Banking Companies (Acquisition and Transfer of Undertakings) and Financial Institutions Laws (Amendment) Act, 2006, in a corresponding new bank exceed the number of directors specified in sub-clause (*I*) or sub-clause (*II*) or sub-clause (*III*), as the case may be, such excess number of directors elected before such commencement shall retire in such manner as may be specified in the scheme and such directors shall not be entitled to claim any compensation for the premature retirement of their term of office.";

(*c*) after sub-section (*3A*), the following sub-sections shall be inserted, namely:—

"(*3AA*) Without prejudice to the provisions of sub-section (*3A*) and notwithstanding anything to the contrary contained in this Act or in any other law for the time being in force, no person shall be eligible to be elected as director under clause (*i*) of sub-section (*3*) unless he is a person having fit and proper status based upon track record, integrity and such other criteria as the Reserve Bank may notify from time to time in this regard.

(*3AB*) The Reserve Bank may also specify in the notification issued under sub-section (*3AA*), the authority to determine the fit and proper status, the manner of such determination, the procedure to be followed for such determination and such other matters as may be considered necessary or incidental thereto.";

(*d*) in sub-section (*3B*), for the word, brackets, figure and letter "sub-section (*3A*)" at both the places where they occur, the words, brackets, figures and letters "sub-section (*3A*) and sub-section (*3AA*) " shall be substituted.

10. After section 9 of the Bank (Second) Nationalisation Act, the following section shall be inserted, namely:— Insertion of new section 9A.

"9A. (*1*) If the Reserve Bank is of the opinion that in the interest of banking policy or in the public interest or in the interests of the corresponding new bank or its depositors, it is necessary so to do, it may, from time to time, by order in writing, appoint, with effect from such date as may be specified in the order, one or more persons to hold office as additional directors of the corresponding new bank. Power of Reserve Bank to appoint additional director.

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(2) Any person appointed as an additional director in pursuance of this section—

(a) shall hold office during the pleasure of the Reserve Bank and subject thereto for a period not exceeding three years or such further periods not exceeding three years at a time as the Reserve Bank may specify;

(b) shall not incur any obligation or liability by reason only of his being a director or for anything done or omitted to be done in good faith in the execution of the duties of his office or in relation thereto; and

(c) shall not be required to hold qualification shares in the corresponding new bank.

(3) For the purpose of reckoning any proportion of the total number of directors of the corresponding new bank, any additional director appointed under this section shall not be taken into account.".

Amendment of section 10A.

11. In section 10A of the Bank (Second) Nationalisation Act,—

(a) in sub-section (2), for the words "shall be entitled to discuss", the words "shall be entitled to discuss, approve and adopt" shall be substituted;

(b) after sub-section (2), the following sub-section shall be inserted, namely:—

"(3) Nothing contained in this section shall apply during the period for which the Board of Directors of a corresponding new bank had been superseded under sub-section (1) of section 18A:

Provided that the Administrator may, if he considers it appropriate in the interest of the corresponding new bank whose Board of Directors had been superseded, call annual general meeting in accordance with the provisions of this section.".

Insertion of new section 10B. Transfer of unpaid or unclaimed dividend to Unpaid Dividend Account.

12. After section 10A of the Bank (Second) Nationalisation Act, the following section shall be inserted, namely:—

'10B. (1) Where, after the commencement of the Banking Companies (Acquisition and Transfer of Undertakings) and Financial Institutions Laws (Amendment) Act, 2006, a dividend has been declared by a corresponding new bank but has not been paid or claimed within thirty days from the date of declaration, to, or by, any shareholder entitled to the payment of the dividend, the corresponding new bank shall, within seven days from the date of the expiry of such period of thirty days, transfer the total amount of dividend which remains unpaid or unclaimed within the said period of thirty days, to a special account to be called "Unpaid Dividend Account of ... (the name of the corresponding new bank).

Explanation.—In this sub-section, the expression "dividend which remains unpaid" means any dividend the warrant in respect thereof has not been encashed or which has otherwise not been paid or claimed.

(2) Where the whole or any part of any dividend, declared by a corresponding new bank before the commencement of the Banking Companies (Acquisition and Transfer of Undertakings) and Financial Institutions Laws (Amendment) Act, 2006, remains unpaid at such commencement, the corresponding new bank shall, within a period of six months from such commencement, transfer such unpaid amount to the account referred to in sub-section (1).

(3) Any money transferred to the Unpaid Dividend Account of a corresponding new bank in pursuance of this section which remains unpaid or unclaimed for a period of seven years from the date of such transfer, shall be transferred by the corresponding new bank to the Investor Education and Protection Fund established under sub-section (1) of section 205C of the Companies Act, 1956. 1 of 1956.

(4) The money transferred under sub-section (3) to the Investor Education and Protection Fund shall be utilised for the purposes and in the manner specified in section 205C of the Companies Act, 1956.'. 1 of 1956.

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13. After section 18 of the Bank (Second) Nationalisation Act, the following section shall be inserted, namely:— Insertion of new section 18A.

"18A. (*1*) Where the Central Government, on the recommendation of the Reserve Bank, is satisfied that in the public interest or for preventing the affairs of any corresponding new bank being conducted in a manner detrimental to the interest of the depositors or the corresponding new bank or for securing the proper management of any corresponding new bank, it is necessary so to do, the Central Government may, for reasons to be recorded in writing, by order, supersede the Board of Directors of such corresponding new bank for a period not exceeding six months as may be specified in the order: Supersession of Board in certain cases.

Provided that the period of supersession of the Board of Directors may be extended from time to time, so, however, that the total period shall not exceed twelve months.

(*2*) The Central Government may, on supersession of the Board of Directors of the corresponding new bank under sub-section (*1*), appoint, in consultation with the Reserve Bank, for such period as it may determine, an Administrator (not being an officer of the Central Government or a State Government) who has experience in law, finance, banking, economics or accountancy.

(*3*) The Central Government may issue such directions to the Administrator as it may deem appropriate and the Administrator shall be bound to follow such directions.

(*4*) Upon making the order of supersession of the Board of Directors of the corresponding new bank, notwithstanding anything contained in this Act,—

(*a*) the chairman, managing director and other directors shall, as from the date of supersession, vacate their offices as such;

(*b*) all the powers, functions and duties which may, by or under the provisions of this Act or any other law for the time being in force, be exercised and discharged by or on behalf of the Board of Directors of such corresponding new bank, or by a resolution passed in general meeting of such corresponding new bank, shall, until the Board of Directors of such corresponding new bank is reconstituted, be exercised and discharged by the Administrator appointed by the Central Government under sub-section (*2*):

Provided that the power exercised by the Administrator shall be valid notwithstanding that such power is exercisable by a resolution passed in the general meeting of the corresponding new bank.

(*5*) The Central Government may constitute, in consultation with the Reserve Bank, a committee of three or more persons who have experience in law, finance, banking, economics or accountancy to assist the Administrator in the discharge of his duties.

(*6*) The committee shall meet at such times and places and observe such rules of procedure as may be specified by the Central Government.

(*7*) The salary and allowances payable to the Administrator and the members of the committee constituted under sub-section (*5*) by the Central Government shall be such as may be specified by the Central Government and be payable by the concerned corresponding new bank.

(*8*) On and before the expiration of two months before expiry of the period of supersession of the Board of Directors as specified in the order issued under sub-section (*1*), the Administrator of the corresponding new bank, shall call the general meeting of the corresponding new bank to elect new directors and reconstitute its Board of Directors.

(*9*) Notwithstanding anything contained in any other law or in any contract, the memorandum or articles of association, no person shall be entitled to claim any compensation for the loss or termination of his office.

VI-Ex.4-3

(*10*) The Administrator appointed under sub-section (*2*) shall vacate office immediately after the Board of Directors of the corresponding new bank has been reconstituted.".

CHAPTER IV

AMENDMENTS TO THE STATE BANK OF INDIA ACT, 1955

Amendment of section 20.

14. In section 20 of the State Bank of India Act, 1955 (hereafter in this Chapter referred to as the State Bank Act), in sub-section (*3*), the words "and thereafter until his successor shall have been duly elected" shall be omitted. 23 of 1955.

Amendment of section 21A.

15. In section 21A of the State Bank Act, in sub-section (*1*), the words "and thereafter until his successor has been duly nominated" shall be omitted. 23 of 1955.

CHAPTER V

AMENDMENTS TO THE STATE BANK OF INDIA (SUBSIDIARY BANKS) ACT, 1959

Amendment of section 26 of Act 38 of 1959.

16. In section 26 of the State Bank of India (Subsidiary Banks) Act, 1959,—

(*a*) in sub-section (*2*), the words "and thereafter until his successor is duly elected" shall be omitted;

(*b*) in sub-section (*2A*), for the words "and thereafter until his successor shall have been duly nominated or appointed", the words "and thereafter until his successor shall have been duly appointed" shall be substituted.

CHAPTER VI

AMENDMENTS TO CERTAIN OTHER ENACTMENTS

Amendment of section 6 of Act 47 of 1961.

17. In section 6 of the Deposit Insurance and Credit Guarantee Corporation Act, 1961, in sub-section (*2*), in clause (*ii*), the words "and thereafter until his successor assumes office" shall be omitted.

Amendment of section 6 of Act 28 of 1981.

18. In section 6 of the Export-Import Bank of India Act, 1981, in sub-section (*6*), the words "and thereafter until his successor enters upon his office" shall be omitted.

Amendment of section 7 of Act 53 of 1987.

19. In section 7 of the National Housing Bank Act, 1987, in sub-section (*2*), the proviso shall be omitted.

Sd/-
K. N. CHATURVEDI,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

H. D. VYAS,
Secretary to Government.

Government Central Press, Gandhinagar.

Extra No. 5 REGISTERED No. G/GNR/2

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Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar.29th January, 2007.

No. RPB/8-2007/Act-38-06/E :— The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 31st August, 2006/Bhadra 9, 1928 (Saka)

The following Act of Parliament has received the assent of the President on the 30th August, 2006, is hereby published for general information :-

THE GOVERNMENT SECURITIES ACT, 2006.

AN ACT

(Act No. 38 of 2006) (30th August, 2006)

to consolidate and amend the law relating to Government securities and its management by the Reserve Bank of India and for matters connected therewith or incidental thereto.

WHEREAS it is expedient to consolidate and amend the law relating to Government securities and its management by the Reserve Bank of India;

AND WHEREAS Parliament has no power to make laws for the States with respect to any of the matters aforesaid except as provided in articles 249 and 250 of the Constitution;

AND WHEREAS in pursuance of clause (1) of article 252 of the Constitution, resolutions have been passed by the Houses of the Legislatures of all the States, except the Legislature of the State of Jammu and Kashmir, to the effect that the matters aforesaid should be regulated in those States by Parliament by law;

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

Short title, application and commencement

1. *(1)* This Act may be called the Government Securities Act, 2006.

(2) This Act applies to Government securities created and issued whether before or after the commencement of this Act by the Central Government or a State Government.

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(3) It applies in the first instance to whole of the States, except the State of Jammu and Kashmir, and to all the Union territories and it shall also apply to the State of Jammu and Kashmir which adopts this Act by resolution passed in that behalf under clause *(1)* of article 252 of the Constitution.

(4) It shall come into force in all the States, except the State of Jammu and Kashmir, and in the Union territories on such date as the Central Government may, by notification in the Official Gazette, appoint and in the State of Jammu and Kashmir which adopts this Act under clause *(1)* of article 252 of the Constitution, on the date of such adoption; and any reference in this Act to the commencement of this Act shall, in relation to any State or Union territory, means the date on which this Act, comes into force in such State or Union territory.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "agent" means a scheduled bank within the meaning of clause *(e)* of section 2 of the Reserve Bank of India Act, 1934, or any other person specified as such; 2 of 1934.

(b) "Bank" means the Reserve Bank of India constituted under section 3 of the Reserve Bank of India Act, 1934; 2 of 1934.

(c) "bond ledger account" means an account with the Bank or an agent in which the Government securities are held in a dematerialised form at the credit of the holder;

(d) "constituents' subsidiary general ledger account" means a subsidiary general ledger account opened and maintained with the Bank by an agent on behalf of the constituents of such agent;

(e) "Government", in relation to any Government security, means the Central or State Government issuing the security;

(f) "Government security" means a security created and issued by the Government for the purpose of raising a public loan or for any other purpose as may be notified by the Government in the Official Gazette and having one of the forms mentioned in section 3;

(g) "prescribed" means prescribed by regulations made under this Act;

(h) "promissory note" includes a treasury bill;

(i) "specified" means specified by the Bank in the Official Gazette.

Forms of Government securities.

3. A Government security may, subject to such terms and conditions as may be specified, be in such forms as may be prescribed or in one of the following forms, namely:—

(i) a Government promissory note payable to or to the order of a certain persons; or

(ii) a bearer bond payable to bearer; or

(iii) a stock; or

(iv) a bond held in a bond ledger account.

Explanation.—For the purpose of this section, "stock" means a Government security,—

(i) registered in the books of the Bank for which a stock certificate is issued; or

(ii) held at the credit of the holder in the subsidiary general ledger account including the constituents subsidiary general ledger account maintained in the books of the Bank,

and transferable by registration in the books of the Bank.

Subsidiary general ledger account.

4. *(1)* A subsidiary general ledger account including a constituents' subsidiary general ledger account and a bond ledger account may be opened and maintained by the Bank subject to such conditions and restrictions as may be specified and in such form and on payment of such fee as may be prescribed.

45 of 1988.

(2) Notwithstanding anything contained in the *Benami* Transactions (Prohibition) Act, 1988, or any other law for the time being in force, the Government securities may be held on behalf of a constituent in a constituents' subsidiary general ledger account under sub-section (1) and the holder of such account shall be deemed to be the holder of the securities held in that account:

Provided that the constituent as a beneficial owner of the Government security shall be entitled to claim from the holder all the benefits and be subjected to all the liabilities in respect of the Government securities held in the constituents' subsidiary general ledger account.

(3) The holder of a constituents' subsidiary general ledger account shall maintain such records and adopt such procedure for safeguarding the interests of the constituents as may be specified.

Transfer of Government securities.

5. (1) No transfer of a Government security shall be valid if it does not purport to convey the full title to the security.

(2) The transfer of the Government securities shall be made in such form and in such manner as may be prescribed.

(3) Any document relating to a Government security or any endorsement on a promissory note issued by the Government may, on the demand of a person who for any reason is unable to write, shall be executed on his behalf in such manner as may be prescribed.

(4) Nothing in this section shall affect any order made by the Bank under this Act, or any order made by a Court upon the Bank.

Holding of Government securities by holders of public offices.

6. (1) In the case of any public office to which the Government may, by notification in the Official Gazette, declare this sub-section to apply, a Government security may be held in the name of the office.

(2) When a Government security is so held, it shall be deemed to be transferred without any or further endorsement or transfer deed from each holder of the office to the succeeding holder of the office on and from the date on which the latter takes charge of the office.

(3) When the holder of the office transfers to a party not being his successor in office where a Government security so held, the transfer shall be made by the signature of the holder of the office and the name of the office in the manner laid down in section 5.

(4) Where the holder of the office is temporarily absent for more than a fortnight from his office for any reason, he may authorise in writing such other person, who would be incharge of this office during the period of such absence, to effect transfer of the Government securities.

(5) This section applies as well to an office of which there are two or more joint holders as to an office of which there is a single holder.

Recognition of title to Government security of deceased sole holder or joint holders.

39 of 1925.

7. (1) Subject to the provisions of sub-sections (2) and (3), if on the death of a sole holder or death of all the joint holders of a Government security there is no nomination in force, the executors or administrators of the deceased sole holder or all the deceased joint holders, as the case may be, or the holder of a succession certificate issued under Part X of the Indian Succession Act, 1925 shall be the only person who may be recognised by the Bank as having any title to the Government security.

(2) Nothing contained in this section shall bar the recognition by the Bank of any person as having a title to a Government security on the basis of a decree, order or direction passed by a competent court declaring the person as having title to the Government security or appointing a receiver to take possession of a security or on the basis of a certificate issued or order passed by any other authority who might have been empowered under any statute to confer on any such person a title to the Government security or on the basis of such other documents as may be prescribed.

(3) Notwithstanding anything contained in this section or in any other law for the time being in force, where the outstanding value of Government security held by a deceased sole holder or deceased joint holders, as the case may be, does not exceed an amount of rupees one lakh or such higher amount not exceeding rupees one crore as may be fixed by the Central Government by notification in the Official Gazette from time to time, the Bank may recognise a person as having title to such Government security of the deceased sole holder or deceased joint holders in such manner and subject to such conditions as may be prescribed.

Right of survivors of joint holders or several payees.

8. Notwithstanding anything contained in section 45 of the Indian Contract Act, 1872 and subject to the provisions of sections 7 and 10,— 9 of 1872.

(*a*) when a Government security is held by two or more persons jointly, and either or any of them dies, the title to the Government security shall vest in the survivor or survivors of those persons; and

(*b*) when a Government security is payable to two or more persons severally and either or any of them dies, the Government security shall be payable to the survivor or survivors of those persons or to the representative of the deceased or to any one of them:

Provided that nothing contained in this section shall affect any claim which any representative of a deceased joint holder or deceased holders of a Government security or a surviving joint holder or holders of a Government security, as the case may be, may have against the survivor or survivors or representatives under or in respect of any Government security to which this section applies.

Explanation.—For the purposes of this section, a body incorporated or deemed to be incorporated under the Companies Act, 1956, or the Co-operative Societies Act, 1912, or any other enactment for the time being in force relating to the incorporation of associations of individuals, shall be deemed to die when it is dissolved. 1 of 1956. 2 of 1912.

Nomination by holders of Government securities.

9. (*1*) Notwithstanding anything contained in sections 7 and 8 or any other law for the time being in force, except the provisions of sub-section (*2*),—

(*a*) where a Government security other than in the form of promissory note or bearer bond is held by a person in his name or jointly with any other name or names, as the case may be, the sole holder or all the joint holders of the Government security together may nominate one or more persons in such form and in such manner as may be prescribed, who in the event of the death of the sole holder or the death of all the joint holders, as the case may be, would become entitled to the Government security and to payment thereon to the exclusion of all other persons, unless the nomination is varied or cancelled in the prescribed manner;

(*b*) where a nomination in respect of a Government security has been made in favour of two or more nominees and either or any of them is dead, the surviving nominee or nominees, as the case may be, shall be entitled to the Government security and payment thereon;

(*c*) where the nominee is a minor, it shall be lawful for the sole holder or all the joint holders of a Government security, as the case may be, to appoint in the prescribed manner any person in whom the Government security would be deemed to have vested in the event of death of such holder or joint holders of the Government security during the minority of the nominee;

(*d*) the recognition of right and claim of the nominee or nominees to the Government security held by a sole holder or joint holders, as the case may be, and any payment made by the Government or the Bank to the nominee or nominees shall constitute a full discharge and shall absolve the Government or the Bank of its liability in respect of the said Government security.

(2) Any nomination or appointment made under sub-section (1) shall become void if the nominee predeceases, or where there are two or more nominees, if all the nominees predecease the holder or joint holders of the Government security making the nomination.

(3) Where the amount due for the time being on a Government security is payable to two or more nominees and either or any of them dies, the title to the Government security shall vest in the survivor or survivors of those nominees and the amount for the time being due thereon shall be paid accordingly.

(4) A transfer of a Government security made in accordance with sub-section (2) of section 5 shall automatically cancel the nomination previously made:

Provided that where a Government security is in the possession of a person either as a pledge or by way of security for any purpose, such possession shall not have the effect of cancelling the nomination, but the right of the nominee shall be subject to the right of the person so possessing it.

(5) The Government may, on the recommendation of the Bank, by notification in the Official Gazette, extend the facility of nomination to any Government security as may be specified therein.

(6) Nothing contained in sub-section (1) shall affect the right or claim which any person may have against the person whose right and title to a Government security is recognised by the Government or the Bank or to whom the payment of the amount due on the Government security is made by the Government or the Bank under sub-section (1).

(7) No notice of any claim of any person, other than the person or persons in whose name a Government security is held or the nominees thereof, shall be receivable by the Bank or the Government, nor shall the Bank or the Government be bound by any such notice even though expressly given to it:

Provided that where any decree, order, certificate or other authority from a court of competent jurisdiction relating to such Government security is produced before the Bank or the Government, the Bank or the Government shall take due note of such decree, order, certificate or other authority.

Government securities belonging to minor or insane person.

10. (1) Where any Government security is held on behalf of a minor, the payment of the same for the time being due on a Government security either by way of outstanding principal or interest thereon may be made to the father or mother of such minor and where neither parent is alive or where the living parents are or only living parent is incapable of action, to a person entitled under the law for the time being in force to have care of the property of the minor.

(2) When a Government security belongs to a minor or a person who is insane and incapable of managing his affairs and the outstanding principal value of the Government security does not in the aggregate exceed rupees one lakh or such higher amount not exceeding rupees one crore as the Central Government may, by a notification in the Official Gazette from time to time, fix, the Bank may make such order as it thinks fit for the vesting of such Government security in such person as it considers represents the minor or insane person.

Issue of duplicate securities and of new securities on conversion, consolidation, sub-division, renewal, stripping or reconstitution.

11. *(1)* If the person entitled to a Government security applies to the Bank alleging that the Government security has been lost, stolen or destroyed, or has been defaced or mutilated, the Bank may, on proof to its satisfaction of the loss, theft, destruction, defacement or mutilation of the Government security, and subject to such conditions and on payment of such fees as may be prescribed, order the issue of a duplicate Government security to the applicant.

(2) If the person entitled to a Government security applies to the Bank to have the Government security converted into a Government security of another form, or into a Government security issued in connection with another loan or to have it consolidated with other like Government securities, or to have it sub-divided, or to have it renewed, stripped or

reconstituted, the Bank may, subject to such conditions and on payment of such fees as may be prescribed, cancel the Government security and order the issue of a new Government security or Government securities.

Explanation.—A Government security may be stripped separately for interest and principal or reconstituted on the application of the holder subject to such terms and conditions as may be specified.

(3) The person to whom a duplicate Government security or a new Government security is issued under this section shall be deemed for the purposes of section 18 to have been recognised by the Bank as the holder of the Government security; and a duplicate Government security or new Government security so issued to any person shall be deemed to constitute a new contract between the Government and such person and all persons deriving title thereafter through him:

Provided that the issue of new security under this section shall not affect the interest of third parties in whose favour a charge or other interest was lawfully created and was subsisting at the time of issue of the new security.

Summary determination by Bank of title to Government security in case of dispute.

12. *(1)* If the Bank is of opinion that a doubt exists as to the title to a Government security, it may proceed to determine, in accordance with such regulations as may be made, the person who shall for the purposes of the Bank be deemed to be the person entitled thereto.

(2) For the purpose of making any order which it is empowered to make under this Act, the Bank may request a District Magistrate to record or to have recorded the whole or any part of such evidence as any person whose evidence the Bank requires may produce and the District Magistrate so requested may either himself record, or may direct any Executive Magistrate empowered in this behalf by general or special order of the State Government to record the evidence, and shall forward a copy thereof to the Bank.

(3) For the purpose of making a vesting order under this Act, the Bank may direct one of its officers to record the evidence of any person whose evidence the Bank requires or may receive evidence upon affidavit.

(4) A Magistrate or an officer of the Bank acting in pursuance of this section may administer an oath to any witness examined by him.

Law applicable in regard to Government securities.

13. Notwithstanding that as a matter of convenience, the Government may have arranged for payments on a Government security to be made elsewhere than in India, the rights of all persons in relation to Government securities shall be determined in connection with all such questions as are dealt with by this Act by the law and in the Courts of India.

Postponement of payments and registration of transfers pending the making of vesting order.

14. Where the Bank contemplates making an order under this Act to vest a Government security in any person, the Bank may suspend payment of interest on or the maturity value of the Government security or postpone the making of any order under section 7, section 10, section 11 or section 12 or the registration of any transfer of the Government security, as the case may be, until the vesting order has been made.

Power of Bank to require bonds.

15. *(1)* Before making any order which it is empowered to make under this Act, the Bank may require the person in whose favour the order is to be made to execute an indemnity bond with one or more sureties in such form as may be prescribed or to furnish security not exceeding twice the value of the subject-matter of the order, to be held at the disposal of the Bank, to pay to the Bank or any person to whom the Bank may assign the indemnity bond or security in furtherance of sub-section (2) the amount thereof.

(2) A Court before which a claim in respect of the subject-matter of any such order is established may order the indemnity bond or security to be assigned to the successful claimant who shall thereupon be entitled to enforce the indemnity bond or realise the security to the extent of such claim.

16. Any notice required to be given by the Bank under this Act may be served by post, but every such notice shall also be published by the Bank in the Official Gazette or the Official Gazette of a State, according as the notice relates to a Government security, issued by the Central Government or a State Government, and on such publication shall be deemed to have been delivered to all persons for whom it is intended. Publication of notices in Official Gazette.

17. *(1)* The Bank shall, while making a vesting order under section 7, section 10, section 11 or section 12, follow such procedure as may be prescribed. Procedure and scope of vesting order.

(2) An order made by the Bank under this Act may either confer full title to a Government security or a title only to the accrued and accruing interest on the Government security pending a further order vesting full title.

18. No recognition by the Bank of a person as the holder of a Government security, and no order made by the Bank under this Act shall be called in question by any Court so far as such recognition or order affects the relations of the Government or the Bank with the person recognised by the Bank as the holder of a Government security or with any person claiming an interest in such security; and any such recognition by the Bank of any person or any order by the Bank vesting a Government security in any person shall operate to confer on that person a title to the security subject only to his personal liability to the rightful owner of the security for money had and received on his account. Legal effect of orders made by Bank.

19. Where the Bank contemplates making with reference to any Government security any order which it is empowered to make under this Act, and before the order is made the Bank receives from a Court in India an order to stay the making of such order, the Bank shall either— Stay of proceedings on order of Court.

(a) hold the security together with any interest unpaid or accruing thereon until further orders of the Court are received; or

(b) apply to the Court to have the security transferred to the Official Trustees appointed for the State in which such Court is situated, pending the disposal of the proceedings before the Court.

20. Where the Bank contemplates making an order under this Act vesting a Government security in any person, the Bank may, at any time before the order is made, cancel any proceedings already taken for that purpose and may, on such cancellation, proceed anew to the making of such order. Cancellation by Bank of vesting proceedings.

21. Save as otherwise expressly provided in the terms of a Government security, no person shall be entitled to claim interest on such security in respect of any period which has elapsed after the earliest date on which demand could have been made for the payment of the amount due on such security. Discharge in respect of interest on Government securities.

22. The Government shall be discharged from all liability on a bearer bond or on any interest coupon of such a bond on payment to the holder of such bond or coupon on presentation on or after the date when it becomes due of the amount expressed therein, unless before such payment, an order of a Court in India has been served on the Government restraining it from making payment. Discharge in respect of bearer bonds.

23. *(1)* Where no shorter period of limitation is fixed by any law for the time being in force, the liability of the Government in respect of any interest payment due on a Government security shall terminate on the expiry of six years from the date on which the amount due by way of interest became payable: Period of limitation of Government's liability in respect of interest.

Provided that the Government may allow a *bona fide* claim for payment of interest after the expiry of the period of six years in those cases where the holders of securities could not prefer their claims within the said period of six years.

(2) Notwithstanding anything contained in sub-section *(1)*, the Bank may specify the securities in respect of which, the circumstances under which, and the terms and conditions subject to which, interest may be paid even after the expiry of the period specified in the said sub-section.

24. No person shall be entitled to inspect or to receive information derived from any Government security in the possession or custody of the Government or from any book, register or other document kept or maintained by or on behalf of the Government in relation to Government securities or any Government security, save in such circumstances and manner and subject to such conditions as may be prescribed. Inspection of documents.

Micro films, facsimile copies of documents, magnetic tapes and computer print outs as documents of evidence.

25. *(1)* Notwithstanding anything contained in any other law for the time being in force,—

(a) a micro film of a document or the reproduction of the image or images embodied in such micro film (whether enlarged or not); or

(b) a facsimile copy of a document; or

(c) a statement contained in a document and included in a printed material produced by a computer, magnetic tape or any other form of mechanical or electronic data retrieval mechanism (hereinafter referred to a computer print out), if the conditions mentioned in sub-section (2) and the other provisions contained in this section are satisfied in relation to the statement and the computer in question,

shall be deemed to be also a document for the purposes of this Act and the regulations made thereunder and shall be admissible in any proceedings thereunder, without further proof or production of the original, as evidence of any contents of the original or of any fact stated therein of which direct evidence would be admissible.

(2) The conditions referred to in sub-section *(1)* in respect of a computer print out shall be the following, namely:—

(a) the computer print out containing the statement was produced by the computer during the period over which the computer was used regularly to store or process information for the purposes of any activities regularly carried on over that period by the person having lawful control over the use of the computer;

(b) during the said period, there was regularly supplied to the computer in the ordinary course of the said activities, information of the kind contained in the statement or of the kind from which the information so contained is derived;

(c) throughout the material part of the said period, the computer was operating properly or, if not, then any respect in which it was not operating properly or was out of operation during that part of that period was not such as to affect the production of the document or the accuracy of the contents; and

(d) the information contained in the statement reproduced or is derived from information supplied to the computer in the ordinary course of the said activities.

(3) Where over any period, the function of storing or processing information for the purposes of any activities regularly carried on over that period as mentioned in clause *(a)* of sub-section *(2)* was regularly performed by computers, whether—

(a) by a combination of computers operating over that period; or

(b) by different computers operating in succession over that period; or

(c) by different combinations of computers operating in succession over that period; or

(d) in any other manner involving the successive operation over that period, in whatever order, of one or more computers and one or more combinations of computers,

all the computers used for that purpose during that period shall be treated for the purposes of this section as constituting a single computer; and references in this section to a computer shall be construed accordingly.

(4) In any proceeding under this Act and the regulations made thereunder where it is desired to give a statement in evidence by virtue of this section, a certificate doing any of the following things, that is to say,—

(a) identifying the document containing the statement and describing the manner in which it was produced;

(b) giving such particulars of any device involved in the production of that document as may be appropriate for the purpose of showing that the document was produced by a computer;

(c) dealing with any of the matters to which the conditions mentioned in sub-section (*2*) relate, and purporting to be signed by a person occupying a responsible official position in the Bank in relation to the operation of the relevant device or the management of the relevant activities (whichever is appropriate),

shall be evidence of any matter stated in the certificate; and for the purposes of this sub-section it shall be sufficient for a matter to be stated to the best of the knowledge and belief of the person stating it.

(5) For the purposes of this section,—

(a) information shall be taken to be supplied to a computer if it is supplied thereto in any appropriate form and whether it is so supplied directly or (with or without human intervention) by means of any appropriate equipment;

(b) whether in the course of activities carried on by any official, information is supplied with a view to its being stored or processed for the purposes of those activities by a computer operated otherwise than in the course of those activities, that information, if duly supplied to that computer, shall be taken to be supplied to it in the course of those activities;

(c) a document shall be taken to have been produced by a computer whether it was produced by it directly or (with or without human intervention) by means of any appropriate equipment.

Explanation.—For the purposes of this section,—

(a) "computer" means any electronic, magnetic, optical or other high-speed data processing service device or system which performs logical, arithmetical and memory functions by manipulation of electronic, magnetic or optical impulses and includes all input, output, processing, storage, computer software or communication facilities which are connected or related to the computer in a computer system or computer network;

(b) "computer print out" shall include ledgers, day-books, account books and other records, maintained in the ordinary course of business of the Bank or of the agent, printed on paper from the information stored in the computer or derived from such information; and

(c) any reference to information being derived from other information shall be a reference to its being derived therefrom by calculation, comparison or any other process.

1 of 1872.
5 of 1908.

26. For the purposes of section 124 of the Indian Evidence Act, 1872, the provisions of Part IV of the Code of Civil Procedure, 1908 relating to suits by or against public officers in their official capacity, and the provisions of rule 27 of Order V, and rule 52 of Order XXI of the said Code, the Bank and any officer of the Bank acting in his capacity as such shall be deemed to be a public officer.

Bank and its officers to be public officers.

27. Where a subsidiary general ledger account is opened by the Bank in favour of any holder of a Government security in terms of section 4 and,—

Misuse of subsidiary general ledger account facility.

(a) it comes to the notice of the Bank that the said account is being operated contrary to the terms and conditions subject to which the account was opened; or

(b) the subsidiary general ledger account transfer form has bounced due to insufficiency of Government security or funds; or

(c) the Bank is of opinion that the account is being operated contrary to the banking practice or in a manner prejudicial to the interests of the holders of Government securities in general; or

(d) the subsidiary general ledger account is being misused in any manner,

the Bank may, by order in writing, after giving an opportunity of being heard, debar the holder of such account from trading with the subsidiary general ledger account facility temporarily or permanently as it deems fit.

Pledge, hypothecation or lien.

28. (*1*) Subject to such terms and conditions as may be prescribed, the holder of a Government security may create a pledge or hypothecation or lien in respect of such security.

(*2*) On receipt of notice of pledge or hypothecation or lien from the holder of the Government security, the Bank or any agent maintaining the account in respect of such security shall make necessary entry in its record and such entry shall be evidence of the pledge, hypothecation or lien thereof, as the case may be.

Power to call for information, cause inspection and issue directions.

29. (*1*) The Bank may at any time, for the purposes of this Act, call for such information as it deems necessary in relation to a Government security from any agent, or holder of subsidiary general ledger account including constituents' subsidiary general ledger account and cause an inspection or scrutiny to be made by one or more of its officers or other persons, of any agent or holder of a subsidiary general ledger account including constituents' subsidiary general ledger account.

(*2*) The Bank may, if it considers necessary so to do, issue such directions as it thinks fit, in relation to a Government security,—

(*i*) to the holders of the subsidiary general ledger accounts including constituents' subsidiary general ledger account;

(*ii*) to the agents maintaining bond ledger account; and

(*iii*) to any other person dealing with the Government securities,

for carrying out the purposes of this Act.

Contravention and penalties.

30. (*1*) If any person, for the purpose of obtaining for himself or for any other person any title to a Government security, makes to any authority in any application made under this Act or in the course of any inquiry undertaken in pursuance of this Act any statement which is false and which he either knows to be false or does not believe to be true, he shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

(*2*) No Court shall take cognizance of any offence under sub-section (*1*) except on the complaint of the Bank.

(*3*) Without prejudice to any other action which the Bank may deem fit to take, the Bank, after giving a reasonable opportunity of being heard, may impose on any person who contravenes any provision of this Act, or contravenes any regulation, notification or direction issued under this Act, or violates the terms and conditions for opening and maintenance of a subsidiary general ledger account, including constituents' subsidiary general ledger account, a penalty, not exceeding five lakh rupees and where such contravention is a continuing one, further penalty which may extend to five thousand rupees for every day after first day during which the contravention continues.

Certain laws not to apply to Government securities.

31. (*1*) The Public Debt Act, 1944 shall cease to apply to the Government securities to which this Act applies and to all matters for which provisions have been made by this Act. 18 of 1944.

(*2*) Notwithstanding such cessation anything done or any action taken in the exercise of any power conferred by or under that Act shall be deemed to have been done or taken in the exercise of the powers conferred by or under this Act as if this Act was in force at all material times.

(*3*) Nothing contained in the Depositories Act, 1996 or the regulations made thereunder shall apply to Government securities covered by this Act unless an agreement is executed to the contrary by any depository under the Depositories Act, 1996 with the Government or the Bank, as the case may be. 22 of 1996.

Power to make regulations.

32. (*1*) The Bank may, with the previous approval of the Central Government, by notification in the Official Gazette, make regulations to carry out the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power such regulations may provide for all or any of the following matters, namely:—

(*a*) the form in which and the terms and conditions subject to which the Government securities may be issued under section 3;

(*b*) the form in which and the fee to be charged for opening and maintenance of subsidiary general ledger account including constituents' subsidiary general ledger account and bond ledger account by the Bank under sub-section (*1*) of section 4;

(*c*) the form and manner in which Government securities shall be transferred under sub-section (*2*) of section 5 and the manner in which any document relating to any Government security or any endorsement on a promissory note may be executed on behalf of a person who is unable to write under sub-section (*3*) of that section;

(*d*) the documents to be produced for recognition of title to the Government security of a deceased sole holder or all deceased joint holders under sub-section (*2*) of section 7 and the manner in which and the conditions subject to which the Bank may recognise title to a Government security under sub-section (*3*) of that section;

(*e*) the form and the manner in which a nomination may be made, varied or cancelled and the manner in which any person may be appointed in whom the Government security would be deemed to have vested in the event of death of holder or joint holders of Government security during the minority of a nominee under section 9;

(*f*) the conditions governing the issue of duplicate Government securities and the fees to be paid therefor under section 11;

(*g*) the manner in which the Bank may determine title to a Government security under section 12;

(*h*) the form of bond under sub-section (*1*) of section 15;

(*i*) the procedure for making vesting order referred to in sub-section (*1*) of section 17;

(*j*) the circumstances and the manner in which and the conditions subject to which inspection of Government securities, books, registers and other documents may be allowed or information therefrom may be given under section 24;

(*k*) the terms and conditions subject to which pledge or hypothecation or lien be created under sub-section (*1*) of section 28.

(*3*) Every regulation made by the Bank under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the regulation or both Houses agree that the regulation should not be made, the regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation.

Construction of references to laws not in force in Jammu and Kashmir.

33. Any reference in this Act to a law which is not in force in the State of Jammu and Kashmir shall, wherever, necessary, be constructed as including a reference to the corresponding law, if any, in force in that State.

Power to remove difficulties.

34. (*1*) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, not inconsistent with the provisions of this Act, remove the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Repeal and saving.

35. (*1*) The Indian Securities Act, 1920 is hereby repealed. 10 of 1920.

(*2*) Notwithstanding such repeal anything done or any action taken in the exercise of any power conferred by or under the Act shall be deemed to have been done or taken in the exercise of the powers conferred by or under this Act as if this Act was in force on the day on which such thing was done or action was taken.

Sd/-
K. N. CHATURVEDI,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

H. D. VYAS,
Secretary to Government.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.

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Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART VI

Acts of Parliament and Ordinances promulgated by the President

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 29th January, 2007.

No. RPB/4-2007/Act-34-06/E :—The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 24th August, 2006/Bhadra 2, 1928 (Saka)

The following Act of Parliament has received the assent of the President on the 23rd August, 2006, is hereby published for general information :-

THE FOOD SAFETY AND STANDARDS ACT, 2006

AN ACT

(Act No. 34 of 2006) (23rd August, 2006)

to consolidate the laws relating to food and to establish the Food Safety and Standards Authority of India for laying down science based standards for articles of food and to regulate their manufacture, storage, distribution, sale and import, to ensure availability of safe and wholesome food for human consumption and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title, extent and commencement.

1. (*1*) This Act may be called the Food Safety and Standards Act, 2006.

(*2*) It extends to the whole of India.

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

Declaration as to expediency of control by the Union.

2. It is hereby declared that it is expedient in the public interest that the Union should take under its control the food industry.

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Definitions.

3. *(1)* In this Act, unless the context otherwise requires,—

(*a*) "adulterant" means any material which is or could be employed for making the food unsafe or sub-standard or mis-branded or containing extraneous matter;

(*b*) "advertisement" means any audio or visual publicity, representation or pronouncement made by means of any light, sound, smoke, gas, print, electronic media, internet or website and includes through any notice, circular, label, wrapper, invoice or other documents;

(*c*) "Chairperson" means the Chairperson of the Food Authority;

(*d*) "claim" means any representation which states, suggests or implies that a food has particular qualities relating to its origin, nutritional properties, nature, processing, composition or otherwise;

(*e*) "Commissioner of Food Safety" means the Commissioner of Food Safety appointed under section 30;

(*f*) " consumer" means persons and families purchasing and receiving food in order to meet their personal needs;

(*g*) "contaminant" means any substance, whether or not added to food, but which is present in such food as a result of the production (including operations carried out in crop husbandry, animal husbandry or veterinary medicine), manufacture, processing, preparation, treatment, packing, packaging, transport or holding of such food or as a result of environmental contamination and does not include insect fragments, rodent hairs and other extraneous matter;

(*h*) "Designated Officer" means the officer appointed under section 36;

(*i*) "extraneous matter" means any matter contained in an article of food which may be carried from the raw materials, packaging materials or process systems used for its manufacture or which is added to it, but such matter does not render such article of food unsafe;

(*j*) "food" means any substance, whether processed, partially processed or unprocessed, which is intended for human consumption and includes primary food to the extent defined in clause (*zk*), genetically modified or engineered food or food containing such ingredients, infant food, packaged drinking water, alcoholic drink, chewing gum, and any substance, including water used into the food during its manufacture, preparation or treatment but does not include any animal feed, live animals unless they are prepared or processed for placing on the market for human consumption, plants prior to harvesting, drugs and medicinal products, cosmetics, narcotic or psychotropic substances:

Provided that the Central Government may declare, by notification in the Official Gazette, any other article as food for the purposes of this Act having regards to its use, nature, substance or quality;

(*k*) "food additive" means any substance not normally consumed as a food by itself or used as a typical ingredient of the food, whether or not it has nutritive value, the intentional addition of which to food for a technological (including organoleptic) purpose in the manufacture, processing, preparation, treatment, packing, packaging, transport or holding of such food results, or may be reasonably expected to result (directly or indirectly), in it or its by-products becoming a component of or otherwise affecting the characteristics of such food but does not include "contaminants" or substances added to food for maintaining or improving nutritional qualities;

(*l*) " Food Analyst" means an analyst appointed under section 45;

(*m*) " Food Authority" means the Food Safety and Standards Authority of India established under section 4;

(*n*) "food business" means any undertaking, whether for profit or not and whether public or private, carrying out any of the activities related to any stage of manufacture, processing, packaging, storage, transportation, distribution of food, import and includes food services, catering services, sale of food or food ingredients;

(*o*) "food business operator" in relation to food business means a person by whom the business is carried on or owned and is responsible for ensuring the compliance of this Act, rules and regulations made thereunder;

(*p*) "food laboratory" means any food laboratory or institute established by the Central or a State Government or any other agency and accredited by National Accreditation Board for Testing and Calibration Laboratories or an equivalent accreditation agency and recognised by the Food Authority under section 43;

(*q*) "food safety" means assurance that food is acceptable for human consumption according to its intended use;

(*r*) "food safety audit" means a systematic and functionally independent examination of food safety measures adopted by manufacturing units to determine whether such measures and related results meet with objectives of food safety and the claims made in that behalf;

(*s*) "Food Safety Management System" means the adoption of Good Manufacturing Practices, Good Hygienic Practices, Hazard Analysis and Critical Control Point and such other practices as may be specified by regulation, for the food business;

(*t*) " Food Safety Officer " means an officer appointed under section 37;

(*u*) "hazard" means a biological, chemical or physical agent in, or condition of, food with the potential to cause an adverse health effect;

(*v*) " import" means bringing into India any article of food by land, sea or air;

(*w*) "improvement notice" means a notice issued under section 32 of this Act;

(*x*) "infant food" and "infant milk substitute" shall have the meanings assigned to them in clauses (*f*) and (*g*) of sub-section (*1*) of section 2 of the Infant Milk Substitutes, Feeding Bottles and Infant Foods (Regulation of Production, Supply and Distribution) Act,1992, respectively;

41 of 1992

(*y*) "ingredient" means any substance, including a food additive used in the manufacture or preparation of food and present in the final product, possibly in a modified form;

(*z*) "label" means any tag, brand, mark, pictorial or other descriptive matter, written, printed, stencilled, marked, embossed, graphic, perforated, stamped or impressed on or attached to container, cover, lid or crown of any food package and includes a product insert;

(*za*) " licence" means a licence granted under section 31;

(*zb*) "local area" means any area, whether urban or rural, notified by the Commissioner of Food Safety, to be a local area for the purposes of this Act;

(*zc*) "manufacture" means a process or adoption or any treatment for conversion of ingredients into an article of food, which includes any sub-process, incidental or ancillary to the manufacture of an article of food;

(*zd*) "manufacturer" means a person engaged in the business of manufacturing any article of food for sale and includes any person who obtains such article from another person and packs and labels it for sale or only labels it for such purposes;

(*ze*) "Member" means Member of the Food Authority and includes the Chairperson;

(*zf*) "misbranded food" means an article of food—

(*A*) if it is purported, or is represented to be, or is being—

(*i*) offered or promoted for sale with false, misleading or deceptive claims either;

(*a*) upon the label of the package, or

(*b*) through advertisement, or

(*ii*) sold by a name which belongs to another article of food; or

(*iii*) offered or promoted for sale under the name of a fictitious individual or company as the manufacturer or producer of the article as borne on the package or containing the article or the label on such package; or

(*B*) if the article is sold in packages which have been sealed or prepared by or at the instance of the manufacturer or producer bearing his name and address but—

(*i*) the article is an imitation of, or is a substitute for, or resembles in a manner likely to deceive, another article of food under the name of which it is sold, and is not plainly and conspicuously labelled so as to indicate its true character; or

(*ii*) the package containing the article or the label on the package bears any statement, design or device regarding the ingredients or the substances contained therein, which is false or misleading in any material particular, or if the package is otherwise deceptive with respect to its contents; or

(*iii*) the article is offered for sale as the product of any place or country which is false; or

(*C*) if the article contained in the package—

(*i*) contains any artificial flavouring, colouring or chemical preservative and the package is without a declaratory label stating that fact or is not labelled in accordance with the requirements of this Act or regulations made thereunder or is in contravention thereof; or

(*ii*) is offered for sale for special dietary uses, unless its label bears such information as may be specified by regulation, concerning its vitamins, minerals or other dietary properties in order sufficiently to inform its purchaser as to its value for such use; or

(*iii*) is not conspicuously or correctly stated on the outside thereof within the limits of variability laid down under this Act.

(*zg*) "notification" means a notification published in the Official Gazette;

(*zh*) "package" means a pre-packed box, bottle, casket, tin, barrel, case, pouch, receptacle, sack, bag, wrapper or such other things in which an article of food is packed;

(*zi*) "premises" include any shop, stall, hotel, restaurant, airline services and food canteens, place or vehicle or vessel where any article of food is sold or manufactured or stored for sale;

(*zj*) "prescribed" means prescribed by rules made by the Central Government or the State Government, as the case may be under this Act;

(*zk*) "primary food" means an article of food, being a produce of agriculture or horticulture or animal husbandry and dairying or aquaculture in its natural form, resulting from the growing, raising, cultivation, picking, harvesting, collection or catching in the hands of a person other than a farmer or fisherman;

(*zl*) "prohibition order" means an order issued under section 33 of this Act;

(*zm*) "risk", in relation to any article of food, means the probability of an adverse effect on the health of consumers of such food and the severity of that effect, consequential to a food hazard;

(*zn*) "risk analysis", in relation to any article of food, means a process consisting of three components, *i.e.*, risk assessment, risk management and risk communication;

(*zo*) "risk assessment" means a scientifically based process consisting of the following steps: (*i*) hazard identification, (*ii*) hazard characterisation, (*iii*) exposure assessment, and (*iv*) risk characterisation;

(*zp*) "risk communication" means the interactive exchange of information and opinions throughout the risk analysis process concerning risks, risk-related factors and risk perceptions, among risk assessors, risk managers, consumers, industry, the academic community and other interested parties, including the explanation of risk assessment findings and the basis of risk management decisions;

(*zq*) "risk management" means the process, distinct from risk assessment, of evaluating policy alternatives, in consultation with all interested parties considering risk assessment and other factors relevant for the protection of health of consumers and for the promotion of fair trade practices, and, if needed, selecting appropriate prevention and control options;

(*zr*) "sale" with its grammatical variations and cognate expressions, means the sale of any article of food, whether for cash or on credit or by way of exchange and whether by wholesale or retail, for human consumption or use, or for analysis, and includes an agreement for sale, an offer for sale, the exposing for sale or having in possession for sale of any such article, and includes also an attempt to sell any such article;

(*zs*) "sample" means a sample of any article of food taken under the provisions of this Act or any rules and regulations made thereunder;

(*zt*) "specified by regulations" means specified by regulations made by the Food Authority;

(*zu*) "standard", in relation to any article of food, means the standards notified by the Food Authority;

(*zv*) "State Government" in relation to a Union territory means the Administrator of that Union territory appointed by the President under article 239 of the Constitution;

(*zw*) "substance" includes any natural or artificial substance or other matter, whether it is in a solid state or in liquid form or in the form of gas or vapour;

(*zx*) "sub-standard", an article of food shall be deemed to be sub-standard if it does not meet the specified standards but not so as to render the article of food unsafe;

(*zy*) "Tribunal" means the Food Safety Appellate Tribunal established under section 70;

(*zz*) "unsafe food" means an article of food whose nature, substance or quality is so affected as to render it injurious to health:—

(*i*) by the article itself, or its package thereof, which is composed, whether wholly or in part, of poisonous or deleterious substances; or

(*ii*) by the article consisting, wholly or in part, of any filthy, putrid, rotten, decomposed or diseased animal substance or vegetable substance; or

(*iii*) by virtue of its unhygienic processing or the presence in that article of any harmful substance; or

(*iv*) by the substitution of any inferior or cheaper substance whether wholly or in part; or

(*v*) by addition of a substance directly or as an ingredient which is not permitted; or

(*vi*) by the abstraction, wholly or in part, of any of its constituents; or

(*vii*) by the article being so coloured, flavoured or coated, powdered or polished, as to damage or conceal the article or to make it appear better or of greater value than it really is; or

(*viii*) by the presence of any colouring matter or preservatives other than that specified in respect thereof; or

(*ix*) by the article having been infected or infested with worms, weevils or insects; or

(*x*) by virtue of its being prepared, packed or kept under insanitary conditions; or

(*xi*) by virtue of its being mis-branded or sub-standard or food containing extraneous matter; or

(*xii*) by virtue of containing pesticides and other contaminants in excess of quantities specified by regulations.

(*2*) Any reference in this Act to a law which is not in force in the State of Jammu and Kashmir shall, in relation to that State, be construed as a reference to the corresponding Law, if any, in force in that State.

CHAPTER II

FOOD SAFETY AND STANDARDS AUTHORITY OF INDIA

Establishment of Food Safety and Standards Authority of India.

4. (*1*) The Central Government shall, by notification, establish a body to be known as the Food Safety and Standards Authority of India to exercise the powers conferred on, and to perform the functions assigned to, it under this Act.

(*2*) The Food Authority shall be a body corporate by the name aforesaid, having perpetual succession and a common seal with power to acquire, hold and dispose of property, both movable and immovable, and to contract and shall, by the said name, sue or be sued.

(*3*) The head office of the Food Authority shall be at Delhi.

(*4*) The Food Authority may establish its offices at any other place in India.

Composition of Food Authority and qualifications for appointment of its Chairperson and other Members.

5. (*1*) The Food Authority shall consist of a Chairperson and the following twenty-two members out of which one-third shall be women, namely:—

(*a*) seven Members, not below the rank of a Joint Secretary to the Government of India, to be appointed by the Central Government, to respectively represent the Ministries or Departments of the Central Government dealing with—

(*i*) Agriculture,
(*ii*) Commerce,
(*iii*) Consumer Affairs,
(*iv*) Food Processing,
(*v*) Health,
(*vi*) Legislative Affairs,
(*vii*) Small Scale Industries,

who shall be Members *ex officio*;

(*b*) two representatives from food industry of which one shall be from small scale industries;

(*c*) two representatives from consumer organisations;

(*d*) three eminent food technologists or scientists;

(*e*) five members to be appointed by rotation every three years, one each in seriatim from the Zones as specified in the First Schedule to represent the States and the Union territories;

(*f*) two persons to represent farmers' organisations;

(*g*) one person to represent retailers' organisations.

(*2*) The Chairperson and other Members of the Food Authority shall be appointed in such a manner so as to secure the highest standards of competence, broad range of relevant expertise, and shall represent, the broadest possible geographic distribution within the country.

(*3*) The Chairperson shall be appointed by the Central Government from amongst the persons of eminence in the field of food science or from amongst the persons from the administration who have been associated with the subject and is either holding or has held the position of not below the rank of Secretary to the Government of India.

(*4*) The Chairperson and the Members other than *ex officio* Members of the Food Authority shall be appointed by the Central Government on the recommendations of the Selection Committee.

(*5*) The Chairperson or Members other than *ex officio* Members of the Food Authority shall not hold any other office.

Selection Committee for selection of Chairperson and Members of Food Authority.

6. (*1*) The Central Government shall, for the purpose of selection of the Chairperson and the Members other than *ex officio* Members of the Food Authority, constitute a Selection Committee consisting of—

(*a*) Cabinet Secretary – Chairperson,

(*b*) Secretary-in-charge of the Ministry or the Department responsible for administration of this Act as the convener—Member,

(*c*) Secretary-in-charge of the Ministries or the Departments of the Central Government dealing with Health, Legislative and Personnel—Members,

(*d*) Chairman of the Public Enterprises Selection Board—Member,

(*e*) An eminent food technologist to be nominated by the Central Government – Member.

Explanation.— For the purposes of clause (*e*), the Central Government shall nominate a person from amongst persons holding the post of Director or the Head, by whatever name called, of any national research or technical institution.

(*2*) The Central Government shall, within two months from the date of occurrence of any vacancy by reason of death, resignation or removal of the Chairperson or a Member of the Food Authority and three months before the superannuation or completion of the term of office of the Chairperson or any Member of that Authority, make a reference to the Selection Committee for filling up of the vacancy.

(*3*) The Selection Committee shall finalise the selection of the Chairperson and Members of the Food Authority within two months from the date on which the reference is made to it.

(*4*) The Selection Committee shall recommend a panel of two names for every vacancy referred to it.

(5) Before recommending any person for appointment as a Chairperson or other Member of the Food Authority, the Selection Committee shall satisfy itself that such person does not have any financial or other interest, which is likely to affect prejudicially his functions as a Member.

(6) No appointment of the Chairperson or other Member of the Food Authority shall be invalid merely by reason of any vacancy in the Selection Committee.

Term of office, salary, allowances and other conditions of service of Chairperson and Members of Food Authority.

7. (1) The Chairperson and the members other than *ex officio* Members shall hold office for a term of three years from the date on which they enter upon their offices, and shall be eligible for re-appointment for a further period of three years:

Provided that no Chairperson or a member other than *ex officio* Member shall hold office as such after he has attained—

(a) in the case of the Chairperson, the age of sixty-five years, and

(b) in the case of a Member, the age of sixty-two years.

(2) The salary and allowances payable to, and the other terms and conditions of service of, the Chairperson and Members other than *ex officio* Members shall be such as may be prescribed by the Central Government.

(3) The Chairperson and every Member shall, before entering upon his office, make and subscribe to an oath of office and of secrecy in such form and in such manner and before such authority as may be prescribed by the Central Government.

(4) Notwithstanding anything contained in sub-section (1), the Chairperson or any Member may—

(a) relinquish his office by giving in writing to the Central Government a notice of not less than three months; or

(b) be removed from his office in accordance with the provisions of section 8.

(5) The Chairperson or any Member ceasing to hold office as such shall not represent any person before the Food Authority or any State Authority in any manner.

Removal of Chairperson and Members of Food Authority.

8. (1) Notwithstanding anything contained in sub-section (1) of section 7, the Central Government may, by order, remove from office the Chairperson or any other Member, if the Chairperson or as the case may be, such other Member,—

(a) has been adjudged an insolvent; or

(b) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or

(c) has become physically or mentally incapable of acting as a Member; or

(d) has acquired such financial or other interests as is likely to affect prejudicially his functions as a Member; or

(e) has so abused his position as to render his continuance in office prejudicial to the public interest.

(2) No Member shall be removed under clauses (d) and (e) of sub-section (1) unless he has been given a reasonable opportunity of being heard in the matter.

Officers and other employees of Food Authority.

9. (1) There shall be a Chief Executive Officer of the Food Authority, not below the rank of Additional Secretary to the Government of India, who shall be the Member-Secretary of the Authority, to be appointed by the Central Government.

(2) The Food Authority may, with the approval of the Central Government, determine the number, nature and categories of other officers and employees required to the Food Authority in the discharge of its functions.

(*3*) The salaries and allowances payable to, and other conditions of service of, the Chief Executive Officer, officers and other employees shall be such as may be specified by regulations by the Food Authority with the approval of the Central Government.

10. (*1*) The Chief Executive Officer shall be the legal representative of the Food Authority and shall be responsible for— **Functions of the Chief Executive Officer.**

(*a*) the day-to-day administration of the Food Authority;

(*b*) drawing up of proposal for the Food Authority's work programmes in consultation with the Central Advisory Committee;

(*c*) implementing the work programmes and the decisions adopted by the Food Authority;

(*d*) ensuring the provision of appropriate scientific, technical and administrative support for the Scientific Committee and the Scientific Panel;

(*e*) ensuring that the Food Authority carries out its tasks in accordance with the requirements of its users, in particular with regard to the adequacy of the services provided and the time taken;

(*f*) the preparation of the statement of revenue and expenditure and the execution of the budget of the Food Authority; and

(*g*) developing and maintaining contact with the Central Government, and for ensuring a regular dialogue with its relevant committees.

(*2*) Every year, the Chief Executive Officer shall submit to the Food Authority for approval—

(*a*) a general report covering all the activities of the Food Authority in the previous year;

(*b*) programmes of work;

(*c*) the annual accounts for the previous year; and

(*d*) the budget for the coming year.

(*3*) The Chief Executive Officer shall, following adoption by the Food Authority, forward the general report and the programmes to the Central Government and the State Governments and shall have them published.

(*4*) The Chief Executive Officer shall approve all financial expenditure of the Food Authority and report on the Authority's activities to the Central Government.

(*5*) The Chief Executive Officer shall exercise the powers of the Commissioner of Food Safety while dealing with matters relating to food safety of such articles.

(*6*) The Chief Executive Officer shall have administrative control over the officers and other employees of the Food Authority.

11. (*1*) The Food Authority shall, by notification, establish a Committee to be known as the Central Advisory Committee. **Central Advisory Committee.**

(*2*) The Central Advisory Committee shall consist of two members each to represent the interests of food industry, agriculture, consumers, relevant research bodies and food laboratories, and all Commissioners of Food Safety, and the Chairperson of the Scientific Committee shall be *ex officio* member.

(*3*) The representatives of the concerned Ministries or Departments of the Central Government in Agriculture, Animal Husbandry and Dairying, Bio-technology, Commerce and Industry, Consumer Affairs, Environment and Forests, Food Processing Industries, Health, Panchayati Raj, Small Scale Industries and Food and Public Distribution or government institutes or organisations and government recognised farmers' organisation shall be invitees to the deliberations of the Central Advisory Committee.

(4) The Chief Executive Officer shall be *ex officio* Chairperson of the Central Advisory Committee.

(5) The Central Advisory Committee shall follow such rules of procedure including its transaction of business as may be specified by regulations.

Functions of Central Advisory Committee.

12. (1) The Central Advisory Committee shall ensure close co-operation between the Food Authority and the enforcement agencies and organisations operating in the field of food.

(2) The Central Advisory Committee shall advise the Food Authority on—

(a) the performance of its duties under this section and in particular in drawing up of a proposal for the Food Authority's work programme,

(b) on the prioritisation of work,

(c) identifying potential risks,

(d) pooling of knowledge, and

(e) such other functions as may be specified by regulations.

(3) The Central Advisory Committee shall meet regularly at the invitation of the Chairperson of Central Advisory Committee or at the request of at least one-third of its members, and not less than three times a year.

Scientific Panels.

13. (1) The Food Authority shall establish scientific panels, which shall consist of independent scientific experts.

(2) The Scientific Panel shall invite the relevant industry and consumer representatives in its deliberations.

(3) Without prejudice to the provisions of sub-section (1), the Food Authority may establish as many Scientific Panels as it considers necessary in addition to the Panels on:

(a) food additives, flavourings, processing aids and materials in contact with food;

(b) pesticides and antibiotics residues;

(c) genetically modified organisms and foods;

(d) functional foods, nutraceuticals, dietetic products and other similar products;

(e) biological hazards;

(f) contaminants in the food chain;

(g) labelling ; and

(h) method of sampling and analysis.

(4) The Food Authority may from time to time re-constitute the Scientific Panels by adding new members or by omitting the existing members or by changing the name of the panel as the case may be.

Scientific Committee.

14. (1) The Food Authority shall constitute Scientific Committee which shall consist of the Chairpersons of the Scientific Panels and six independent scientific experts not belonging or affiliated to any of the Scientific Panels.

(2) The Scientific Committee shall be responsible for providing the scientific opinions to the Food Authority, and shall have the powers, where necessary, of organising public hearings.

(3) The Scientific Committee shall be responsible for the general co-ordination necessary to ensure consistency of the scientific opinion procedure and in particular with regard to the adoption of working procedures and harmonisation of working methods of the Scientific Panels.

(*4*) The Scientific Committee shall provide opinions on multi-sectoral issues falling within the competence of more than one Scientific Panel, and on issues which do not fall within the competence of any of the Scientific Panels.

(*5*) Wherever necessary, and particularly in the case of subjects which do not fall within the competence of any of the Scientific Panel, the Scientific Committee shall set up working groups and in such cases, it shall draw on the expertise of those working groups when establishing scientific opinions.

Procedure for Scientific Committee and Scientific Panel.

15. (*1*) The members of the Scientific Committee, who are not members of the Scientific Panel and the members of the Scientific Panel shall be appointed by the Food Authority, for a period of three-years, which shall be renewable, for such period, and the vacancy notice shall be published in the relevant leading scientific publications and on the Food Authority's website for a call for expressions of interest.

(*2*) The Scientific Committee and the Scientific Panel shall each choose a Chairperson from amongst their members.

(*3*) The Scientific Committee and the Scientific Panel shall act by a majority of their members and the views of the members shall be recorded.

(*4*) The procedure for the operation and co-operation of the Scientific Committee and the Scientific Panel shall be specified by regulations.

(*5*) These procedures shall relate in particular to—

(*a*) the number of times that a member can serve consecutively on a Scientific Committee or Scientific Panel;

(*b*) the number of members in each Scientific Panel;

(*c*) the procedure for re-imbursing the expenses of members of the Scientific Committee and the Scientific Panel;

(*d*) the manner in which tasks and requests for scientific opinions are assigned to the Scientific Committee and the Scientific Panel;

(*e*) the creation and organisation of the working groups of the Scientific Committee and the Scientific Panel, and the possibility of external experts being included in those working groups;

(*f*) the possibility of observers being invited to meetings of the Scientific Committee and the Scientific Panel;

(*g*) the possibility of organising public hearings; and

(*h*) quorum of the meeting, meeting notice, agenda of the meeting and such other matters.

Duties and functions of Food Authority.

16. (*1*) It shall be the duty of the Food Authority to regulate and monitor the manufacture, processing, distribution, sale and import of food so as to ensure safe and wholesome food.

(*2*) Without prejudice to the provisions of sub-section (*1*), the Food Authority may by regulations specify—

(*a*) the standards and guidelines in relation to articles of food and specifying an appropriate system for enforcing various standards notified under this Act;

(*b*) the limits for use of food additives, crop contaminants, pesticide residues, residues of veterinary drugs, heavy metals, processing aids, myco-toxins, antibiotics and pharmacological active substances and irradiation of food;

(*c*) the mechanisms and guidelines for accreditation of certification bodies engaged in certification of food safety management systems for food businesses;

(*d*) the procedure and the enforcement of quality control in relation to any article of food imported into India;

(*e*) the procedure and guidelines for accreditation of laboratories and notification of the accredited laboratories;

(*f*) the method of sampling, analysis and exchange of information among enforcement authorities;

(*g*) conduct survey of enforcement and administration of this Act in the country;

(*h*) food labelling standards including claims on health, nutrition, special dietary uses and food category systems for foods; and

(*i*) the manner in which and the procedure subject to which risk analysis, risk assessment, risk communication and risk management shall be undertaken.

(*3*) The Food Authority shall also—

(*a*) provide scientific advice and technical support to the Central Government and the State Governments in matters of framing the policy and rules in areas which have a direct or indirect bearing on food safety and nutrition;

(*b*) search, collect, collate, analyse and summarise relevant scientific and technical data particularly relating to—

(*i*) food consumption and the exposure of individuals to risks related to the consumption of food;

(*ii*) incidence and prevalence of biological risk;

(*iii*) contaminants in food;

(*iv*) residues of various contaminants;

(*v*) identification of emerging risks; and

(*vi*) introduction of rapid alert system;

(*c*) promote, co-ordinate and issue guidelines for the development of risk assessment methodologies and monitor and conduct and forward messages on the health and nutritional risks of food to the Central Government, State Governments and Commissioners of Food Safety;

(*d*) provide scientific and technical advice and assistance to the Central Government and the State Governments in implementation of crisis management procedures with regard to food safety and to draw up a general plan for crisis management and work in close co-operation with the crisis unit set up by the Central Government in this regard;

(*e*) establish a system of network of organisations with the aim to facilitate a scientific co-operation framework by the co-ordination of activities, the exchange of information, the development and implementation of joint projects, the exchange of expertise and best practices in the fields within the Food Authority's responsibility;

(*f*) provide scientific and technical assistance to the Central Government and the State Governments for improving co-operation with international organisations;

(*g*) take all such steps to ensure that the public, consumers, interested parties and all levels of panchayats receive rapid, reliable, objective and comprehensive information through appropriate methods and means;

(*h*) provide, whether within or outside their area, training programmes in food safety and standards for persons who are or intend to become involved in food businesses, whether as food business operators or employees or otherwise;

(*i*) undertake any other task assigned to it by the Central Government to carry out the objects of this Act;

(*j*) contribute to the development of international technical standards for food, sanitary and phyto-sanitary standards;

(*k*) contribute, where relevant and appropriate, to the development of agreement on recognition of the equivalence of specific food related measures;

(*l*) promote co-ordination of work on food standards undertaken by international governmental and non-governmental organisations;

(*m*) promote consistency between international technical standards and domestic food standards while ensuring that the level of protection adopted in the country is not reduced; and

(*n*) promote general awareness as to food safety and food standards.

(*4*) The Food Authority shall make it public without undue delay—

(*a*) the opinions of the Scientific Committee and the Scientific Panel immediately after adoption;

(*b*) the annual declarations of interest made by members of the Food Authority; the Chief Executive Officer, members of the Advisory Committee and members of the Scientific Committee and Scientific Panel, as well as the declarations of interest if any, made in relation to items on the agendas of meetings;

(*c*) the results of its scientific studies; and

(*d*) the annual report of its activities.

(*5*) The Food Authority may, from time to time give such directions, on matters relating to food safety and standards, to the Commissioner of Food Safety, who shall be bound by such directions while exercising his powers under this Act;

(*6*) The Food Authority shall not disclose or cause to be disclosed to third parties confidential information that it receives for which confidential treatment has been requested and has been acceded, except for information which must be made public if circumstances so require, in order to protect public health.

Proceedings of Food Authority.

17. (*1*) The Food Authority shall meet at the head office or any of its offices at such time as the Chairperson may direct, and shall observe such rules of procedure in regard to the transaction of business at its meetings (including the quorum at its meetings) as may be specified by regulations.

(*2*) If the Chairperson is unable to attend a meeting of the Food Authority, any other Member nominated by the Chairperson in this behalf and, in the absence of such nomination or where there is no Chairperson, any Member chosen by the Members present from amongst themselves, shall preside at the meeting.

(*3*) All questions which come up before any meeting of the Food Authority shall be decided by a majority of votes of the Members present and voting, and in the event of an equality of votes, the Chairperson or the person presiding over the meeting shall have the right to exercise a second or casting vote.

(*4*) All orders and decisions of the Food Authority shall be authenticated by the Chief Executive Officer.

(*5*) The Chief Executive Officer shall take part in the meetings of the Food Authority but without a right to vote.

(*6*) The Food Authority may invite the Chairperson of the Scientific Committee to attend its meetings but without a right to vote.

(7) No act or proceedings of the Food Authority shall be questioned or invalidated merely on the ground of existence of any vacancy or defect in the constitution of the Food Authority.

CHAPTER III

GENERAL PRINCIPLES OF FOOD SAFETY

General principles to be followed in administration of Act.

18. The Central Government, the State Governments, the Food Authority and other agencies, as the case may be, while implementing the provisions of this Act shall be guided by the following principles, namely:—

(1) (a) endeavour to achieve an appropriate level of protection of human life and health and the protection of consumers' interests, including fair practices in all kinds of food trade with reference to food safety standards and practices;

(b) carry out risk management which shall include taking into account the results of risk assessment, and other factors which in the opinion of the Food Authority are relevant to the matter under consideration and where the conditions are relevant, in order to achieve the general objectives of regulations;

(c) where in any specific circumstances, on the basis of assessment of available information, the possibility of harmful effects on health is identified but scientific uncertainty persists, provisional risk management measures necessary to ensure appropriate level of health protection may be adopted, pending further scientific information for a more comprehensive risk assessment;

(d) the measures adopted on the basis of clause (c) shall be proportionate and no more restrictive of trade than is required to achieve appropriate level of health protection, regard being had to technical and economic feasibility and other factors regarded as reasonable and proper in the matter under consideration;

(e) the measures adopted shall be reviewed within a reasonable period of time, depending on the nature of the risk to life or health being identified and the type of scientific information needed to clarify the scientific uncertainty and to conduct a more comprehensive risk assessment;

(f) in cases where there are reasonable grounds to suspect that a food may present a risk for human health, then, depending on the nature, seriousness and extent of that risk, the Food Authority and the Commissioner of Food Safety shall take appropriate steps to inform the general public of the nature of the risk to health, identifying to the fullest extent possible the food or type of food, the risk that it may present, and the measures which are taken or about to be taken to prevent, reduce or eliminate that risk; and

(g) where any food which fails to comply with food safety requirements is part of a batch, lot or consignment of food of the same class or description, it shall be presumed until the contrary is proved, that all of the food in that batch, lot or consignment fails to comply with those requirements.

(2) The Food Authority shall, while framing regulations or specifying standards under this Act—

(a) take into account—

(i) prevalent practices and conditions in the country including agricultural practices and handling, storage and transport conditions; and

(ii) international standards and practices, where international standards or practices exist or are in the process of being formulated,

unless it is of opinion that taking into account of such prevalent practices and conditions or international standards or practices or any particular part thereof

would not be an effective or appropriate means for securing the objectives of such regulations or where there is a scientific justification or where they would result in a different level of protection from the one determined as appropriate in the country;

(*b*) determine food standards on the basis of risk analysis except where it is of opinion that such analysis is not appropriate to the circumstances or the nature of the case;

(*c*) undertake risk assessment based on the available scientific evidence and in an independent, objective and transparent manner;

(*d*) ensure that there is open and transparent public consultation, directly or through representative bodies including all levels of panchayats, during the preparation, evaluation and revision of regulations, except where it is of opinion that there is an urgency concerning food safety or public health to make or amend the regulations in which case such consultation may be dispensed with:

Provided that such regulations shall be in force for not more than six months;

(*e*) ensure protection of the interests of consumers and shall provide a basis for consumers to make informed choices in relation to the foods they consume;

(*f*) ensure prevention of—

(*i*) fraudulent, deceptive or unfair trade practices which may mislead or harm the consumer; and

(*ii*) unsafe or contaminated or sub-standard food.

(*3*) The provisions of this Act shall not apply to any farmer or fisherman or farming operations or crops or livestock or aquaculture, and supplies used or produced in farming or products of crops produced by a farmer at farm level or a fisherman in his operations.

CHAPTER IV

GENERAL PROVISIONS AS TO ARTICLES OF FOOD

Use of food additive or processing aid.

19. No article of food shall contain any food additive or processing aid unless it is in accordance with the provisions of this Act and regulations made thereunder.

Explanation.—For the purposes of this section, "processing aid" means any substance or material, not including apparatus or utensils, and not consumed as a food ingredient by itself, used in the processing of raw materials, foods or its ingredients to fulfil a certain technological purpose during treatment or processing and which may result in the non-intentional but unavoidable presence of residues or derivatives in the final product.

Contaminants, naturally occurring toxic substances, heavy metals, etc.

20. No article of food shall contain any contaminant, naturally occurring toxic substances or toxins or hormone or heavy metals in excess of such quantities as may be specified by regulations.

Pesticides, veterinary drugs residues, antibiotic residues and micro-biological counts.

21. (*1*) No article of food shall contain insecticides or pesticides residues, veterinary drugs residues, antibiotic residues, solvent residues, pharmacological active substances and micro-biological counts in excess of such tolerance limits as may be specified by regulations.

(*2*) No insecticide shall be used directly on article of food except fumigants registered and approved under the Insecticides Act, 1968. 46 of 1968.

Explanation.—For the purposes of this section,—

(*1*) "pesticide residue" means any specified substance in food resulting from the use of a pesticide and includes any derivatives of a pesticide, such as conversion products, metabolites, reaction products and impurities considered to be of toxicological significance and also includes such residues coming into food from environment;

(2) "residues of veterinary drugs" include the parent compounds or their metabolites or both in any edible portion of any animal product and include residues of associated impurities of the veterinary drug concerned.

Genetically modified foods, organic foods, functional foods, proprietary foods, etc.

22. Save as otherwise provided under this Act and regulations made thereunder, no person shall manufacture, distribute, sell or import any novel food, genetically modified articles of food, irradiated food, organic foods, foods for special dietary uses, functional foods, neutraceuticals, health supplements, proprietary foods and such other articles of food which the Central Government may notify in this behalf.

Explanation.—For the purposes of this section,—

(1) "foods for special dietary uses or functional foods or nutraceuticals or health supplements" means:

(*a*) foods which are specially processed or formulated to satisfy particular dietary requirements which exist because of a particular physical or physiological condition or specific diseases and disorders and which are presented as such, wherein the composition of these foodstuffs must differ significantly from the composition of ordinary foods of comparable nature, if such ordinary foods exist, and may contain one or more of the following ingredients, namely:—

(*i*) plants or botanicals or their parts in the form of powder, concentrate or extract in water, ethyl alcohol or hydro alcoholic extract, single or in combination;

(*ii*) minerals or vitamins or proteins or metals or their compounds or amino acids (in amounts not exceeding the Recommended Daily Allowance for Indians) or enzymes (within permissible limits);

(*iii*) substances from animal origin;

(*iv*) a dietary substance for use by human beings to supplement the diet by increasing the total dietary intake;

(*b*) (*i*) a product that is labelled as a "Food for special dietary uses or functional foods or nutraceuticals or health supplements or similar such foods" which is not represented for use as a conventional food and whereby such products may be formulated in the form of powders, granules, tablets, capsules, liquids, jelly and other dosage forms but not parenterals, and are meant for oral administration;

(*ii*) such product does not include a drug as defined in clause (*b*) and ayurvedic, sidha and unani drugs as defined in clauses (*a*) and (*h*) of section 3 of the Drugs and Cosmetics Act, 1940 and rules made thereunder; 23 of 1940.

(*iii*) does not claim to cure or mitigate any specific disease, disorder or condition (except for certain health benefit or such promotion claims) as may be permitted by the regulations made under this Act;

(*iv*) does not include a narcotic drug or a psychotropic substance as defined in the Schedule of the Narcotic Drugs and Psychotropic Substances Act, 1985 and rules made thereunder and substances listed in Schedules E and EI of the Drugs and Cosmetics Rules, 1945; 61 of 1985.

(2) "genetically engineered or modified food" means food and food ingredients composed of or containing genetically modified or engineered organisms obtained through modern biotechnology, or food and food ingredients produced from but not containing genetically modified or engineered organisms obtained through modern biotechnology;

(3) "organic food" means food products that have been produced in accordance with specified organic production standards;

(*4*) "proprietary and novel food" means an article of food for which standards have not been specified but is not unsafe:

Provided that such food does not contain any of the foods and ingredients prohibited under this Act and the regulations made thereunder.

Packaging and labelling of foods.

23. (*1*) No person shall manufacture, distribute, sell or expose for sale or despatch or deliver to any agent or broker for the purpose of sale, any packaged food products which are not marked and labelled in the manner as may be specified by regulations:

Provided that the labels shall not contain any statement, claim, design or device which is false or misleading in any particular concerning the food products contained in the package or concerning the quantity or the nutritive value implying medicinal or therapeutic claims or in relation to the place of origin of the said food products.

(*2*) Every food business operator shall ensure that the labelling and presentation of food, including their shape, appearance or packaging, the packaging materials used, the manner in which they are arranged and the setting in which they are displayed, and the information which is made available about them through whatever medium, does not mislead consumers.

Restrictions of advertisement and prohibition as to unfair trade practices.

24. (*1*) No advertisement shall be made of any food which is misleading or deceiving or contravenes the provisions of this Act, the rules and regulations made thereunder.

(*2*) No person shall engage himself in any unfair trade practice for purpose of promoting the sale, supply, use and consumption of articles of food or adopt any unfair or deceptive practice including the practice of making any statement, whether orally or in writing or by visible representation which—

(*a*) falsely represents that the foods are of a particular standard, quality, quantity or grade-composition;

(*b*) makes a false or misleading representation concerning the need for, or the usefulness;

(*c*) gives to the public any guarantee of the efficacy that is not based on an adequate or scientific justification thereof:

Provided that where a defence is raised to the effect that such guarantee is based on adequate or scientific justification, the burden of proof of such defence shall lie on the person raising such defence.

CHAPTER V

PROVISIONS RELATING TO IMPORT

All imports of articles of food to be subject to this Act.

25. (*1*) No person shall import into India—

(*i*) any unsafe or misbranded or sub-standard food or food containing extraneous matter;

(*ii*) any article of food for the import of which a licence is required under any Act or rules or regulations, except in accordance with the conditions of the licence; and

(*iii*) any article of food in contravention of any other provision of this Act or of any rule or regulation made thereunder or any other Act.

22 of 1992

(*2*) The Central Government shall, while prohibiting, restricting or otherwise regulating import of articles of food under the Foreign Trade (Development and Regulation) Act, 1992, follow the standards laid down by the Food Authority under the provisions of this Act and the rules and regulations made thereunder.

CHAPTER VI

SPECIAL RESPONSIBILITIES AS TO FOOD SAFETY

Responsibilities of the food business operator.

26. (*1*) Every food business operator shall ensure that the articles of food satisfy the requirements of this Act and the rules and regulations made thereunder at all stages of production, processing, import, distribution and sale within the businesses under his control.

(*2*) No food business operator shall himself or by any person on his behalf manufacture, store, sell or distribute any article of food—

(*i*) which is unsafe; or

(*ii*) which is misbranded or sub-standard or contains extraneous matter; or

(*iii*) for which a licence is required, except in accordance with the conditions of the licence; or

(*iv*) which is for the time being prohibited by the Food Authority or the Central Government or the State Government in the interest of public health; or

(*v*) in contravention of any other provision of this Act or of any rule or regulation made thereunder.

(*3*) No food business operator shall employ any person who is suffering from infectious, contagious or loathsome disease.

(*4*) No food business operator shall sell or offer for sale any article of food to any vendor unless he also gives a guarantee in writing in the form specified by regulations about the nature and quality of such article to the vendor:

Provided that a bill, cash memo, or invoice in respect of the sale of any article of food given by a food business operator to the vendor shall be deemed to be a guarantee under this section, even if a guarantee in the specified form is not included in the bill, cash memo or invoice.

(*5*) Where any food which is unsafe is part of a batch, lot or consignment of food of the same class or description, it shall be presumed that all the food in that batch, lot or consignment is also unsafe, unless following a detailed assessment within a specified time, it is found that there is no evidence that the rest of the batch, lot or consignment is unsafe:

Provided that any conformity of a food with specific provisions applicable to that food shall be without prejudice to the competent authorities taking appropriate measures to impose restrictions on that food being placed on the market or to require its withdrawal from the market for the reasons to be recorded in writing where such authorities suspect that, despite the conformity, the food is unsafe.

Liability of manufacturers, packers, wholesalers, distributors and sellers.

27. (*1*) The manufacturer or packer of an article of food shall be liable for such article of food if it does not meet the requirements of this Act and the rules and regulations made thereunder.

(*2*) The wholesaler or distributor shall be liable under this Act for any article of food which is—

(*a*) supplied after the date of its expiry; or

(*b*) stored or supplied in violation of the safety instructions of the manufacturer; or

(*c*) unsafe or misbranded; or

(*d*) unidentifiable of manufacturer from whom the article of food have been received; or

(*e*) stored or handled or kept in violation of the provisions of this Act, the rules and regulations made thereunder; or

(*f*) received by him with knowledge of being unsafe.

(3) The seller shall be liable under this Act for any article of food which is—

(a) sold after the date of its expiry; or

(b) handled or kept in unhygienic conditions; or

(c) misbranded; or

(d) unidentifiable of the manufacturer or the distributors from whom such articles of food were received; or

(e) received by him with knowledge of being unsafe.

Food recall procedures.

28. (1) If a food business operator considers or has reasons to believe that a food which he has processed, manufactured or distributed is not in compliance with this Act, or the rules or regulations, made thereunder, he shall immediately initiate procedures to withdraw the food in question from the market and consumers indicating reasons for its withdrawal and inform the competent authorities thereof.

(2) A food business operator shall immediately inform the competent authorities and co-operate with them, if he considers or has reasons to believe that a food which he has placed on the market may be unsafe for the consumers.

(3) The food business operator shall inform the competent authorities of the action taken to prevent risks to the consumer and shall not prevent or discourage any person from co-operating, in accordance with this Act, with the competent authorities, where this may prevent, reduce or eliminate a risk arising from a food.

(4) Every food business operator shall follow such conditions and guidelines relating to food recall procedures as the Food Authority may specify by regulations.

CHAPTER VII

ENFORCEMENT OF THE ACT

Authorities responsible for enforcement of Act.

29. (1) The Food Authority and the State Food Safety Authorities shall be responsible for the enforcement of this Act.

(2) The Food Authority and the State Food Safety Authorities shall monitor and verify that the relevant requirements of law are fulfilled by food business operators at all stages of food business.

(3) The authorities shall maintain a system of control and other activities as appropriate to the circumstances, including public communication on food safety and risk, food safety surveillance and other monitoring activities covering all stages of food business.

(4) The Food Safety Officers shall enforce and execute within their area the provisions of this Act with respect to which the duty is not imposed expressly or by necessary implication on some other authority.

(5) The regulations under this Act shall specify which of the Food Safety Officers are to enforce and execute them, either generally or in relation to cases of a particular description or a particular area, and any such regulations or orders may provide for the giving of assistance and information, by any authority concerned in the administration of the regulations or orders, or of any provisions of this Act, to any other authority so concerned, for the purposes of their respective duties under them.

(6) The Commissioner of Food Safety and Designated Officer shall exercise the same powers as are conferred on the Food Safety Officer and follow the same procedure specified in this Act.

Commissioner of Food Safety of the State.

30. (1) The State Government shall appoint the Commissioner of Food Safety for the State for efficient implementation of food safety and standards and other requirements laid down under this Act and the rules and regulations made thereunder.

(*2*) The Commissioner of Food Safety shall perform all or any of the following functions, namely:—

(*a*) prohibit in the interest of public health, the manufacture, storage, distribution or sale of any article of food, either in the whole of the State or any area or part thereof for such period, not exceeding one year, as may be specified in the order notified in this behalf in the Official Gazette;

(*b*) carry out survey of the industrial units engaged in the manufacture or processing of food in the State to find out compliance by such units of the standards notified by the Food Authority for various articles of food;

(*c*) conduct or organise training programmes for the personnel of the office of the Commissioner of Food Safety and, on a wider scale, for different segments of food chain for generating awareness on food safety;

(*d*) ensure an efficient and uniform implementation of the standards and other requirements as specified and also ensure a high standard of objectivity, accountability, practicability, transparency and credibility;

(*e*) sanction prosecution for offences punishable with imprisonment under this Act;

(*f*) such other functions as the State Government may, in consultation with the Food Authority, prescribe.

(*3*) The Commissioner of Food Safety may, by Order, delegate, subject to such conditions and restrictions as may be specified in the Order, such of his powers and functions under this Act (except the power to appoint Designated Officer, Food Safety Officer and Food Analyst) as he may deem necessary or expedient to any officer subordinate to him.

Licensing and registration of food business.

31. (*1*) No person shall commence or carry on any food business except under a licence.

(*2*) Nothing contained in sub-section (*1*) shall apply to a petty manufacturer who himself manufactures or sells any article of food or a petty retailer, hawker, itinerant vendor or a temporary stall holder or small scale or cottage or such other industries relating to food business or tiny food business operator; but they shall register themselves with such authority and in such manner as may be specified by regulations, without prejudice to the availability of safe and wholesome food for human consumption or affecting the interests of the consumers.

(*3*) Any person desirous to commence or carry on any food business shall make an application for grant of a licence to the Designated Officer in such manner containing such particulars and fees as may be specified by regulations.

(*4*) The Designated Officer on receipt of an application under sub-section (*3*), may either grant the licence or after giving the applicant an opportunity of being heard and for reasons to be recorded in writing, refuse to grant a licence to any applicant, if he is satisfied that it is necessary so to do in the interest of public health and shall make available to the applicant a copy of the order:

Provided that if a licence is not issued within two months from the date of making the application or his application is not rejected, the applicant may start his food business after expiry of the said period and in such a case, the Designated Officer shall not refuse to issue a licence but may, if he considers necessary, issue an improvement notice, under section 32 and follow procedures in that regard.

(*5*) Every licence shall be in such form and subject to such conditions as may be specified by regulations.

(*6*) A single licence may be issued by the Designated Officer for one or more articles of food and also for different establishments or premises in the same area.

(*7*) If the articles of food are manufactured, stored, sold or exhibited for sale at different premises situated in more than one area, separate applications shall be made and separate licence shall be issued in respect of such premises not falling within the same area.

(*8*) An appeal against the order of rejection for the grant of licence shall lie to the Commissioner of Food Safety.

(*9*) A licence unless suspended or cancelled earlier shall be in force for such period as may be specified by regulations:

Provided that if an application for a renewal of licence is made before the expiry of the period of validity of the licence, the licence shall continue to be in force until orders are passed on the application.

(*10*) The licence shall subsist for the benefit of the deceased's personal representative or any other member of his family, until the expiry of—

(*a*) the period of three months beginning with his death; or

(*b*) such longer period as the Designated Officer may allow.

Improvement notices.

32. (*1*) If the Designated Officer has reasonable ground for believing that any food business operator has failed to comply with any regulations to which this section applies, he may, by a notice served on that food business operator (in this Act referred to as an "improvement notice")—

(*a*) state the grounds for believing that the food business operator has failed to comply with the regulations;

(*b*) specify the matters which constitute the food business operator's failure so to comply;

(*c*) specify the measures which, in the opinion of the said Authority, the food business operator must take, in order to secure compliance; and

(*d*) require the food business operator to take those measures, or measures which are at least equivalent to them, within a reasonable period (not being less than fourteen days) as may be specified in the notice.

(*2*) If the food business operator fails to comply with an improvement notice, his licence may be suspended.

(*3*) If the food business operator still fails to comply with the improvement notice, the Designated Officer may, after giving the licensee an opportunity to show cause, cancel the licence granted to him:

Provided that the Designated Officer may suspend any licence forthwith in the interest of public health for reasons to be recorded in writing.

(*4*) Any person who is aggrieved by—

(*a*) an improvement notice; or

(*b*) refusal to issue a certificate as to improvement; or

(*c*) cancellation or suspension or revocation of licence under this Act,

may appeal to the Commissioner of Food Safety whose decision thereon, shall be final.

(*5*) The period within which such an appeal may be brought shall be—

(*a*) fifteen days from the date on which notice of the decision was served on the person desiring to appeal; or

(*b*) in the case of an appeal under sub-section (*1*), the said period or the period specified in the improvement notice, whichever expires earlier.

Explanation.—For the purpose of this sub-section, the making of the complaint shall be deemed to be the bringing of the appeal.

Prohibition orders.

33. (*1*) If—

(*a*) any food business operator is convicted of an offence under this Act; and

(*b*) the court by or before which he is so convicted is satisfied that the health risk exists with respect to that food business,

the court, after giving the food business operator an opportunity of being heard, may by an order, impose the following prohibitions, namely :—

(*i*) a prohibition on the use of the process or treatment for the purposes of the food business;

(*ii*) a prohibition on the use of the premises or equipment for the purposes of the food business or any other food business of the same class or description;

(*iii*) a prohibition on the use of the premises or equipment for the purposes of any food business.

(*2*) The court may, on being satisfied that it is necessary so to do, by an order, impose a prohibition on the food business operator participating in the management of any food business, or any food business of a class or description specified in the order.

(*3*) As soon as practicable after the making of an order under sub-section (*1*) or sub-section (*2*) (in this Act referred to as a "prohibition order"), the concerned Food Safety Officer shall—

(*a*) serve a copy of the order on the food business operator; and

(*b*) in the case of an order under sub-section (*1*), affix a copy of the order at a conspicuous place on such premises used for the purposes of the food business,

and any person who knowingly contravenes such an order shall be guilty of an offence and be punishable with a fine which may extend to three lakh rupees.

(*4*) The concerned Food Safety Officer shall with the approval of the Designated Officer issue a certificate to the effect that the food business operator has taken sufficient measures justifying lifting of the prohibition order, within seven days of his being satisfied on an application made by the food business operator for such a certificate or the said officer shall—

(*a*) determine, as soon as is reasonably practicable and in any event within fourteen days, whether or not he is so satisfied; and

(*b*) if he determines that he is not so satisfied, give notice to the food business operator of the reasons for that determination.

(*5*) A prohibition order shall cease to have effect upon the court being satisfied, on an application made by the food business operator not less than six months after the prohibition order has been passed, that the food business operator has taken sufficient measures justifying the lifting of the prohibition order.

(*6*) The court shall give a direction on an application by the food business operator, if the court thinks it proper so to do having regard to all the circumstances of the case, including in particular, the conduct of the food business operator since the making of the order; but no such application shall be entertained if it is not made—

(*a*) within six months after the making of the prohibition order; or

(*b*) within three months after the making by the food business operator of a previous application for such a direction.

Explanation.—For the purpose of this section,—

(*i*) any reference above shall apply in relation to a manager of a food business as it applies in relation to the food business operator; and any reference to the food business operator of the business, or to the food business operator, shall be construed accordingly;

(*ii*) "manager", in relation to a food business, means any person who is entrusted by the food business operator with the day-to-day running of the business, or any part of the business.

Emergency prohibition notices and orders.

34. (*1*) If the Designated Officer is satisfied that the health risk condition exists with respect to any food business, he may, after a notice served on the food business operator (in this Act referred to as an "emergency prohibition notice"), apply to the Commissioner of Food Safety for imposing the prohibition.

(*2*) If the Commissioner of Food Safety is satisfied, on the application of such an officer, that the health risk condition exists with respect to any food business, he shall, by an order, impose the prohibition.

(*3*) The Designated Officer shall not apply for an emergency prohibition order unless, at least one day before the date of the application, he has served notice on the food business operator of the business of his intention to apply for the order.

(*4*) As soon as practicable after the making of an emergency prohibition order, the Designated Officer shall require the Food Safety Officer to —

(*a*) serve a copy of the order on the food business operator of the business; or

(*b*) affix a copy of the order at a conspicuous place on such premises used for the purposes of that business;

and any person who knowingly contravenes such an order shall be guilty of an offence and shall be punishable with imprisonment for a term which may extend to two years and with fine which may extend to two lakh rupees.

(*5*) An emergency prohibition order shall cease to have effect on the issue by the Designated Officer of a certificate to the effect that he is satisfied that the food business operator has taken sufficient measures for justifying the lifting of such order.

(*6*) The Designated Officer shall issue a certificate under sub-section (*5*) within seven days of an application by the food business operator for such a certificate and on his being not satisfied, the said officer shall give notice to the food business operator within a period of ten days indicating the reasons for such decision.

Notification of food poisoning.

35. The Food Authority may, by notification, require registered medical practitioners carrying on their profession in any local area specified in the notification, to report all occurrences of food poisoning coming to their notice to such officer as may be specified.

Designated Officer.

36. (*1*) The Commissioner of Food Safety shall, by order, appoint the Designated Officer, who shall not be below the rank of a Sub-Divisional Officer, to be in-charge of food safety administration in such area as may be specified by regulations.

(*2*) There shall be a Designated Officer for each district.

(*3*) The functions to be performed by the Designated Officer shall be as follows, namely:—

(*a*) to issue or cancel licence of food business operators;

(*b*) to prohibit the sale of any article of food which is in contravention of the provisions of this Act and rules and regulations made thereunder;

(*c*) to receive report and samples of article of foods from Food Safety Officer under his jurisdiction and get them analysed;

(*d*) to make recommendations to the Commissioner of Food Safety for sanction to launch prosecutions in case of contraventions punishable with imprisonment;

(*e*) to sanction or launch prosecutions in cases of contraventions punishable with fine;

(*f*) to maintain record of all inspections made by Food Safety Officers and action taken by them in the performance of their duties;

(*g*) to get investigated any complaint which may be made in writing in respect of any contravention of the provisions of this Act and the rules and regulations made thereunder;

(*h*) to investigate any complaint which may be made in writing against the Food Safety Officer; and

(*i*) to perform such other duties as may be entrusted by the Commissioner of Food Safety.

Food Safety Officer.

37. (*1*) The Commissioner of Food Safety shall, by notification, appoint such persons as he thinks fit, having the qualifications prescribed by the Central Government, as Food Safety Officers for such local areas as he may assign to them for the purpose of performing functions under this Act and the rules and regulations made thereunder.

(*2*) The State Government may authorise any officer of the State Government having the qualifications prescribed under sub-section (*1*) to perform the functions of a Food Safety Officer within a specified jurisdiction.

Powers of Food Safety Officer.

38. (*1*) The Food Safety Officer may—

(*a*) take a sample—

(*i*) of any food, or any substance, which appears to him to be intended for sale, or to have been sold for human consumption; or

(*ii*) of any article of food or substance which is found by him on or in any such premises;

which he has reason to believe that it may be required as evidence in proceedings under any of the provisions of this Act or of the regulations or orders made thereunder; or

(*b*) seize any article of food which appears to the Food Safety Officer to be in contravention of this Act or the regulations made thereunder; and

(*c*) keep it in the safe custody of the food business operator such article of food after taking a sample;

and in both cases send the same for analysis to a Food Analyst for the local area within which such sample has been taken:

Provided that where the Food Safety Officer keeps such article in the safe custody of the food business operator, he may require the food business operator to execute a bond for a sum of money equal to the value of such article with one or more sureties as the Food Safety Officer deems fit and the food business operator shall execute the bond accordingly.

(*2*) The Food Safety Officer may enter and inspect any place where the article of food is manufactured, or stored for sale, or stored for the manufacture of any other article of food, or exposed or exhibited for sale and where any adulterant is manufactured or kept, and take samples of such articles of food or adulterant for analysis.

(*3*) Where any sample is taken, its cost calculated at the rate at which the article is usually sold to the public shall be paid to the person from whom it is taken.

(*4*) Where any article of food seized under clause (*b*) of sub-section (*1*) is of a perishable nature and the Food Safety Officer is satisfied that such article of food is so deteriorated that

it is unfit for human consumption, the Food Safety Officer may, after giving notice in writing to the food business operator, cause the same to be destroyed.

(*5*) The Food Safety Officer shall, in exercising the powers of entry upon, and inspection of any place under this section, follow, as far as may be, the provisions of the Code of Criminal Procedure, 1973 relating to the search or inspection of a place by a police officer executing a search warrant issued under that Code.

2 of 1974.

(*6*) Any adulterant found in the possession of a manufacturer or distributor of, or dealer in, any article of food or in any of the premises occupied by him as such and for the possession of which he is unable to account to the satisfaction of the Food Safety Officer and any books of account or other documents found in his possession or control and which would be useful for, or relevant to, any investigation or proceeding under this Act, may be seized by the Food Safety Officer and a sample of such adulterant submitted for analysis to a Food Analyst:

Provided that no such books of account or other documents shall be seized by the Food Safety Officer except with the previous approval of the authority to which he is subordinate.

(*7*) Where the Food Safety Officer takes any action under clause (*a*) of sub-section (*1*), or sub-section (*2*) or sub-section (*4*) or sub-section (*6*), he shall, call one or more persons to be present at the time when such action is taken and take his or their signatures.

(*8*) Where any books of account or other documents are seized under sub-section (*6*), the Food Safety Officer shall, within a period not exceeding thirty days from the date of seizure, return the same to the person from whom they were seized after copies thereof or extracts therefrom as certified by that person in such manner as may be prescribed by the Central Government have been taken:

Provided that where such person refuses to so certify and a prosecution has been instituted against him under this Act, such books of account or other documents shall be returned to him only after copies thereof and extracts therefrom as certified by the court have been taken.

(*9*) When any adulterant is seized under sub-section (*6*), the burden of proving that such adulterant is not meant for purposes of adulteration shall be on the person from whose possession such adulterant was seized.

(*10*) The Commissioner of Food Safety may from time to time issue guidelines with regard to exercise of powers of the Food Safety Officer, which shall be binding:

Provided that the powers of such Food Safety Officer may also be revoked for a specified period by the Commissioner of Food Safety.

Liability of Food Safety Officer in certain cases.

39. Any Food Safety Officer exercising powers under this Act or the rules and regulations made thereunder who—

(*a*) vexatiously and without any reasonable ground seizes any article of food or adulterant; or

(*b*) commits any other act to the injury of any person without having reason to believe that such act is necessary for the execution of his duty,

shall be guilty of an offence under this Act and shall be liable to a penalty which may extend to one lakh rupees:

Provided that in case any false complaint is made against a Food Safety Officer and it is proved so, the complainant shall be guilty of an offence under this Act and shall be punishable with fine which shall not be less than fifty thousand rupees but may extend to one lakh rupees.

Purchaser may have food analysed.

40. (*1*) Nothing contained in this Act shall be held to prevent a purchaser of any article of food other than a Food Safety Officer from having such article analysed by the Food Analyst on payment of such fees and receiving from the Food Analyst a report of his analysis within such period as may be specified by regulations:

Provided that such purchaser shall inform the food business operator at the time of purchase of his intention to have such article so analysed:

Provided further that if the report of the Food Analyst shows that the article of food is not in compliance with the Act or the rules or regulations made thereunder, the purchaser shall be entitled to get refund of the fees paid by him under this section.

(2) In case the Food Analyst finds the sample in contravention of the provisions of this Act and rules and regulations made thereunder, the Food Analysts shall forward the report to the Designated Officer to follow the procedure laid down in section 42 for prosecution.

Power of search, seizure, investigation, prosecution and procedure thereof.

41. (1) Notwithstanding anything contained in sub-section (2) of section 31, the Food Safety Officer may search any place, seize any article of food or adulterant, if there is a reasonable doubt about them being involved in commission of any offence relating to food, and shall thereafter inform the Designated Officer of the actions taken by him in writing:

Provided that no search shall be deemed to be irregular by reason only of the fact that witnesses for the search are not inhabitants of the locality in which the place searched is situated.

(2) Save as in this Act otherwise expressly provided, provisions of the Code of Criminal Procedure, 1973 relating to search, seizure, summon, investigation and prosecution, shall apply, as far as may be, to all action taken by the Food Safety Officer under this Act. 2 of 1974.

Procedure for launching prosecution.

42. (1) The Food Safety Officer shall be responsible for inspection of food business, drawing samples and sending them to Food Analyst for analysis.

(2) The Food Analyst after receiving the sample from the Food Safety Officer shall analyse the sample and send the analysis report mentioning method of sampling and analysis within fourteen days to Designated Officer with a copy to Commissioner of Food Safety.

(3) The Designated Officer after scrutiny of the report of Food Analyst shall decide as to whether the contravention is punishable with imprisonment or fine only and in the case of contravention punishable with imprisonment, he shall send his recommendations within fourteen days to the Commissioner of Food Safety for sanctioning prosecution.

(4) The Commissioner of Food Safety shall, if he so deems fit, decide, within the period prescribed by the Central Government, as per the gravity of offence, whether the matter be referred to,—

(a) a court of ordinary jurisdiction in case of offences punishable with imprisonment for a term up to three years; or

(b) a Special Court in case of offences punishable with imprisonment for a term exceeding three years where such Special Court is established and in case no Special Court is established, such cases shall be tried by a court of ordinary jurisdiction.

(5) The Commissioner of Food Safety shall communicate his decision to the Designated Officer and the concerned Food Safety Officer who shall launch prosecution before courts of ordinary jurisdiction or Special Court, as the case may be; and such communication shall also be sent to the purchaser if the sample was taken under section 40.

CHAPTER VIII

ANALYSIS OF FOOD

Recognition and accreditation of laboratories, research institutions and referral food laboratory.

43. (1) The Food Authority may notify food laboratories and research institutions accredited by National Accreditation Board for Testing and Calibration Laboratories or any other accreditation agency for the purposes of carrying out analysis of samples by the Food Analysts under this Act.

(2) The Food Authority shall, establish or recognise by notification, one or more referral food laboratory or laboratories to carry out the functions entrusted to the referral food laboratory by this Act or any rules and regulations made thereunder.

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(*3*) The Food Authority may frame regulations specifying—

(*a*) the functions of food laboratory and referral food laboratory and the local area or areas within which such functions may be carried out;

(*b*) the procedure for submission to the said laboratory of samples of articles of food for analysis or tests, the forms of the laboratory's reports thereon and the fees payable in respect of such reports; and

(*c*) such other matters as may be necessary or expedient to enable the said laboratory to carry out its functions effectively.

44. The Food Authority may recognise any organisation or agency for the purposes of food safety audit and checking compliance with food safety management systems required under this Act or the rules and regulations made thereunder.

Recognition of organisation or agency for food safety audit.

45. The Commissioner of Food Safety may, by notification, appoint such persons as he thinks fit, having the qualifications prescribed by the Central Government, to be Food Analysts for such local areas as may be assigned to them by the Commissioner of Food Safety:

Food Analysts.

Provided that no person, who has any financial interest in the manufacture or sale of any article of food shall be appointed to be a Food Analyst under this section:

Provided further that different Food Analysts may be appointed for different articles of food.

46. (*1*) On receipt of a package containing a sample for analysis from a Food Safety Officer or any other person, the Food Analyst shall compare the seal on the container and the outer cover with specimen impression received separately and shall note the conditions of the seal thereon:

Functions of Food Analyst.

Provided that in case a sample container received by the Food Analyst is found to be in broken condition or unfit for analysis, he shall within a period of seven days from the date of receipt of such sample inform the Designated Officer about the same and send requisition to him for sending second part of the sample.

(*2*) The Food Analyst shall cause to be analysed such samples of article of food as may be sent to him by Food Safety Officer or by any other person authorised under this Act.

(*3*) The Food Analyst shall, within a period of fourteen days from the date of receipt of any sample for analysis, send—

(*i*) where such sample is received under section 38 or section 47, to the Designated Officer, four copies of the report indicating the method of sampling and analysis; and

(*ii*) where such sample is received under section 40 , a copy of the report indicating the method of sampling and analysis to the person who had purchased such article of food with a copy to the Designated Officer:

Provided that in case the sample can not be analysed within fourteen days of its receipt, the Food Analyst shall inform the Designated Officer and the Commissioner of Food Safety giving reasons and specifying the time to be taken for analysis.

(*4*) An appeal against the report of Food Analyst shall lie before the Designated Officer who shall, if he so decides, refer the matter to the referral food laboratory as notified by the Food Authority for opinion.

47. (*1*) When a Food Safety Officer takes a sample of food for analysis, he shall—

Sampling and analysis.

(*a*) give notice in writing of his intention to have it so analysed to the person from whom he has taken the sample and to the person, if any, whose name, address and other particulars have been disclosed;

(*b*) except in special cases as may be provided by rules made under this Act, divide the sample into four parts and mark and seal or fasten up each part in such a manner as its nature permits and take the signature or thumb impression of the person from whom the sample has been taken in such place and in such manner as may be prescribed by the Central Government:

Provided that where such person refuses to sign or put his thumb impression, the Food Safety Officer shall call upon one or more witnesses and take his signature or thumb impression, in lieu of the signature or thumb impression of such person;

(*c*) (*i*) send one of the parts for analysis to the Food Analyst under intimation to the Designated Officer;

(*ii*) send two parts to the Designated Officer for keeping these in safe custody; and

(*iii*) send the remaining part for analysis to an accredited laboratory, if so requested by the food business operator, under intimation to the Designated Officer:

Provided that if the test reports received under sub-clauses (*i*) and (*iii*) are found to be at variance, then the Designated Officer shall send one part of the sample kept in his custody, to referral laboratory for analysis, whose decision thereon shall be final.

(*2*) When a sample of any article of food or adulterant is taken, the Food Safety Officer shall, by the immediate succeeding working day, send the sample to the Food Analyst for the area concerned for analysis and report.

(*3*) Where the part of the sample sent to the Food Analyst is lost or damaged, the Designated Officer shall, on a requisition made to him, by the Food Analyst or the Food Safety Officer, despatch one of the parts of the sample sent to him, to the Food Analyst for analysis.

(*4*) An article of food or adulterant seized, unless destroyed, shall be produced before the Designated Officer as soon as possible and in any case not later than seven days after the receipt of the report of the Food Analyst:

Provided that if an application is made to the Designated Officer in this behalf by the person from whom any article of food has been seized, the Designated Officer shall by order in writing direct the Food Safety Officer to produce such article before him within such time as may be specified in the order.

(*5*) In case of imported articles of food, the authorised officer of the Food Authority shall take its sample and send to the Food Analyst of notified laboratory for analysis who shall send the report within a period of five days to the authorised officer.

(*6*) The Designated Officer, the Food Safety Officer, the authorised officer and the Food Analyst shall follow such procedure as may be specified by regulations.

CHAPTER IX

OFFENCES AND PENALTIES

General provisions relating to offences.

48. (*1*) A person may render any article of food injurious to health by means of one or more of the following operations, namely:—

(*a*) adding any article or substance to the food;

(*b*) using any article or substance as an ingredient in the preparation of the food;

(*c*) abstracting any constituents from the food; or

(*d*) subjecting the food to any other process or treatment,

with the knowledge that it may be sold or offered for sale or distributed for human consumption.

(*2*) In determining whether any food is unsafe or injurious to health, regard shall be had to—

(*a*) (*i*) the normal conditions of use of the food by the consumer and its handling at each stage of production, processing and distribution;

(*ii*) the information provided to the consumer, including information on the label, or other information generally available to the consumer concerning the avoidance of specific adverse health effects from a particular food or category of foods not only to the probable, immediate or short-term or long-term effects of that food on the health of a person consuming it, but also on subsequent generations;

(*iii*) to the probable cumulative toxic effects;

(*iv*) to the particular health sensitivities of a specific category of consumers where the food is intended for that category of consumers; and

(*v*) also to the probable cumulative effect of food of substantially the same composition on the health of a person consuming it in ordinary quantities;

(*b*) the fact where the quality or purity of the article, being primary food, has fallen below the specified standard or its constituents are present in quantities not within the specified limits of variability, in either case, solely due to natural causes and beyond the control of human agency, then such article shall not be deemed to be unsafe or sub-standard or food containing extraneous matter.

Explanation.—For the purposes of this section, "injury", includes any impairment, whether permanent or temporary, and "injurious to health" shall be construed accordingly.

General provisions relating to penalty.

49. While adjudging the quantum of penalty under this Chapter, the Adjudicating Officer or the Tribunal, as the case may be, shall have due regard to the following:—

(*a*) the amount of gain or unfair advantage, wherever quantifiable, made as a result of the contravention,

(*b*) the amount of loss caused or likely to cause to any person as a result of the contravention,

(*c*) the repetitive nature of the contravention,

(*d*) whether the contravention is without his knowledge, and

(*e*) any other relevant factor.

Penalty for selling food not of the nature or substance or quality demanded.

50. Any person who sells to the purchaser's prejudice any food which is not in compliance with the provisions of this Act or the regulations made thereunder, or of the nature or substance or quality demanded by the purchaser, shall be liable to a penalty not exceeding five lakh rupees.

Provided that the persons covered under sub-section (*2*) of section 31, shall for such non-compliance be liable to a penalty not exceeding twenty five thousand rupees.

Penalty for sub-standard food.

51. Any person who whether by himself or by any other person on his behalf manufactures for sale or stores or sells or distributes or imports any article of food for human consumption which is sub-standard, shall be liable to a penalty which may extend to five lakh rupees.

Penalty for misbranded food.

52. (*1*) Any person who whether by himself or by any other person on his behalf manufactures for sale or stores or sells or distributes or imports any article of food for human consumption which is misbranded, shall be liable to a penalty which may extend to three lakh rupees.

(*2*) The Adjudicating Officer may issue a direction to the person found guilty of an offence under this section, for taking corrective action to rectify the mistake or such article of food shall be destroyed.

Penalty for misleading advertisement.

53. (*1*) Any person who publishes, or is a party to the publication of an advertisement, which—

(*a*) falsely describes any food; or

(*b*) is likely to mislead as to the nature or substance or quality of any food or gives false guarantee,

shall be liable to a penalty which may extend to ten lakh rupees.

(*2*) In any proceeding the fact that a label or advertisement relating to any article of food in respect of which the contavention is alleged to have been committed contained an accurate statement of the composition of the food shall not preclude the court from finding that the contravention was committed.

Penalty for food containing extraneous matter.

54. Any person whether by himself or by any other person on his behalf manufactures for sale or stores or sells or distributes or imports any article of food for human consumption containing extraneous matter, shall be liable to a penalty which may extend to one lakh rupees.

Penalty for failure to comply with the directions of Food Safety Officer.

55. If a food business operator or importer without reasonable ground, fails to comply with the requirements of this Act or the rules or regulations or orders issued thereunder, as directed by the Food Safety Officer, he shall be liable to a penalty which may extend to two lakh rupees.

Penalty for unhygienic or unsanitary processing or manufacturing of food.

56. Any person who, whether by himself or by any other person on his behalf, manufactures or processes any article of food for human consumption under unhygienic or unsanitary conditions, shall be liable to a penalty which may extend to one lakh rupees.

Penalty for possessing adulterant.

57. (*1*) Subject to the provisions of this Chapter, if any person who whether by himself or by any other person on his behalf, imports or manufactures for sale, or stores, sells or distribute any adulterant shall be liable—

(*i*) where such adulterant is not injurious to health, to a penalty not exceeding two lakh rupees;

(*ii*) where such adulterant is injurious to health, to a penalty not exceeding ten lakh rupees.

(*2*) In a proceeding under sub-section (*1*), it shall not be a defence that the accused was holding such adulterant on behalf of any other person.

Penalty for contraventions for which no specific penalty is provided.

58. Whoever contravenes any provisions of this Act or the rules or regulations made thereunder, for the contravention of which no penalty has been separately provided in this Chapter, shall be liable to a penalty which may extend two lakh rupees.

Punishment for unsafe food.

59. Any person who, whether by himself or by any other person on his behalf, manufactures for sale or stores or sells or distributes or imports any article of food for human consumption which is unsafe, shall be punishable,—

(*i*) where such failure or contravention does not result in injury, with imprisonment for a term which may extend to six months and also with fine which may extend to one lakh rupees;

(*ii*) where such failure or contravention results in a non-grievous injury, with imprisonment for a term which may extend to one year and also with fine which may extend to three lakh rupees;

(*iii*) where such failure or contravention results in a grievous injury, with imprisonment for a term which may extend to six years and also with fine which may extend to five lakh rupees;

(*iv*) where such failure or contravention results in death, with imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life and also with fine which shall not be less than ten lakh rupees.

Punishment for interfering with seized items.

60. If a person without the permission of the Food Safety Officer, retains, removes or tampers with any food, vehicle, equipment, package or labelling or advertising material or other thing that has been seized under this Act, he shall be punishable with imprisonment for a term which may extend to six months and also with fine which may extend to two lakh rupees.

Punishment for false information.

61. If a person, in connection with a requirement or direction under this Act, provides any information or produces any document that the person knows is false or misleading, he shall be punishable with imprisonment for a term which may extend to three months and also with fine which may extend to two lakh rupees.

Punishment for obstructing or impersonating a Food Safety Officer.

62. If a person without reasonable excuse, resists, obstructs, or attempts to obstruct, impersonate, threaten, intimidate or assault a Food Safety Officer in exercising his functions under this Act, he shall be punishable with imprisonment for a term which may extend to three months and also with fine which may extend to one lakh rupees.

Punishment for carrying out a business without licence.

63. If any person or food business operator (except the persons exempted from licensing under sub-section (*2*) of section 31 of this Act), himself or by any person on his behalf who is required to obtain licence, manufacturers, sells, stores or distributes or imports any article of food without licence, shall be punishable with imprisonment for a term which may extend to six months and also with a fine which may extend to five lakh rupees.

Punishment for subsequent offences.

64. (*1*) If any person, after having been previously convicted of an offence punishable under this Act subsequently commits and is convicted of the same offence, he shall be liable to—

(*i*) twice the punishment, which might have been imposed on a first conviction, subject to the punishment being maximum provided for the same offence ;

(*ii*) a further fine on daily basis which may extend up to one lakh rupees, where the offence is a continuing one; and

(*iii*) his licence shall be cancelled.

(*2*) The Court may also cause the offender's name and place of residence, the offence and the penalty imposed to be published at the offender's expense in such newspapers or in such other manner as the court may direct and the expenses of such publication shall be deemed to be part of the cost attending the conviction and shall be recoverable in the same manner as a fine.

Compensation in case of injury or death of consumer.

65. (*1*) Without prejudice to the other provisions of this Chapter, if any person whether by himself or by any other person on his behalf, manufactures or distributes or sells or imports any article of food causing injury to the consumer or his death, it shall be lawful for the Adjudicating Officer or as the case may be, the court to direct him to pay compensation to the victim or the legal representative of the victim, a sum—

(*a*) not less than five lakh rupees in case of death;

(*b*) not exceeding three lakh rupees in case of grievous injury; and

(*c*) not exceeding one lakh rupees, in all other cases of injury:

Provided that the compensation shall be paid at the earliest and in no case later than six months from the date of occurrence of the incident:

Provided further that in case of death, an interim relief shall be paid to the next of the kin within thirty days of the incident.

(*2*) Where any person is held guilty of an offence leading to grievous injury or death, the Adjudicating Officer or the court may cause the name and place of residence of the person held guilty, the offence and the penalty imposed to be published at the offender's expense in such newspapers or in such other manner as the Adjudicating Officer or the court may direct and the expenses of such publication shall be deemed to be part of the cost attending the conviction and shall be recoverable in the same manner as a fine.

(3) The Adjudicating Officer or the court may also,—

(a) order for cancellation of licence, re-call of food from market, forfeiture of establishment and property in case of grievous injury or death of consumer;

(b) issue prohibition orders in other cases.

Offences by companies.

66. (1) Where an offence under this Act which has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that where a company has different establishments or branches or different units in any establishment or branch, the concerned Head or the person in-charge of such establishment, branch, unit nominated by the company as responsible for food safety shall be liable for contravention in respect of such establishment, branch or unit:

Provided further that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purpose of this section,—

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

Penalty for contravention of provisions of this Act in case of import of articles of food to be in addition to penalties provided under any other Act.

67. (1) Any person who imports any article of food which is in contravention of the provisions of this Act, rules and regulations made thereunder, shall, in addition to any penalty to which he may be liable under the provisions of the Foreign Trade (Development and Regulation) Act, 1992 and the Customs Act, 1962 be also liable under this Act and shall be proceeded against accordingly. 22 of 1992. 52 of 1962.

(2) Any such article of food shall be destroyed or returned to the importer, if permitted by the competent authority under the Foreign Trade (Development and Regulation) Act, 1992 or the Customs Act, 1962, or any other Act, as the case may be. 22 of 1992. 52 of 1962.

CHAPTER X

ADJUDICATION AND FOOD SAFETY APPELLATE TRIBUNAL

Adjudication.

68. (1) For the purposes of adjudication under this Chapter, an officer not below the rank of Additional District Magistrate of the district where the alleged offence is committed, shall be notified by the State Government as the Adjudicating Officer for adjudication in the manner as may be prescribed by the Central Government.

(2) The Adjudicating Officer shall, after giving the person a reasonable opportunity for making representation in the matter, and if, on such inquiry, he is satisfied that the person has committed the contravention of provisions of this Act or the rules or the regulations made thereunder, impose such penalty as he thinks fit in accordance with the provisions relating to that offence.

(3) The Adjudicating Officer shall have the powers of a civil court and—

(a) all proceedings before him shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 of the Indian Penal Code; 45 of 1860.

(b) shall be deemed to be a court for the purposes of sections 345 and 346 of the Code of Criminal Procedure, 1973. 2 of 1974.

(4) While adjudicating the quantum of penalty under this Chapter, the Adjudicating Officer shall have due regard to the guidelines specified in section 49.

Power to compound offences.

69. (1) The Commissioner of Food Safety may, by order, empower the Designated Officer, to accept from petty manufacturers who himself manufacture and sell any article of food, retailers, hawkers, itinerant vendors, temporary stall holders against whom a reasonable belief exists that he has committed an offence or contravention against this Act, payment of a sum of money by way of composition of the offence which such person is suspected to have committed.

(2) On the payment of such sum of money to such officer, the suspected person, if in custody, shall be discharged and no further proceedings in respect of the offence shall be taken against such person.

(3) The sum of money accepted or agreed to be accepted as composition under sub-section (1), shall not be more than one lakh rupees and due regard shall be made to the guidelines specified in section 49:

Provided that no offence, for which punishment of imprisonment has been prescribed under this Act, shall be compounded.

Establishment of Food Safety Appellate Tribunal.

70. (1) The Central Government or as the case may be, the State Government may, by notification, establish one or more tribunals to be known as the Food Safety Appellate Tribunal to hear appeals from the decisions of the Adjudicating Officer under section 68.

(2) The Central Government or the State Government, as the case may be, shall prescribe, the matters and areas in relation to which the Tribunal may exercise jurisdiction.

(3) The Tribunal shall consist of one person only (hereinafter referred to as the Presiding Officer of the Tribunal) to be appointed, by notification, by the Central Government or the State Government, as the case may be:

Provided that no person shall be qualified for appointment as a Presiding Officer to the Tribunal unless he is or has been a District Judge.

(4) The qualifications, appointment, term of office, salary and allowances, resignation and removal of the Presiding Officer shall be such as may be prescribed by the Central Government.

(5) The procedure of appeal and powers of the Tribunal shall be such as may be prescribed by the Central Government.

Procedure and powers of Tribunal.

71. (1) The Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908 but shall be guided by the principles of natural justice and, subject to the other provisions of this Act and the rules made thereunder, the Tribunal shall have powers to regulate its own procedure including the place at which it shall have its sittings. 5 of 1908.

(2) The Tribunal shall have, for the purposes of discharging its functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely:— 5 of 1908.

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents or other electronic records;

(*c*) receiving evidence on affidavits;

(*d*) issuing commissions for the examination of witnesses or documents;

(*e*) reviewing its decisions;

(*f*) dismissing an application for default or deciding it *ex parte*;

(*g*) any other matter which may be prescribed by the Central Government.

(*3*) Every proceeding before the Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196 of the Indian Penal Code, it shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973. 45 of 1860. 2 of 1974.

(*4*) The appellant may either appear in person or authorise one or more legal practitioners or any of its officers to represent his case before the Tribunal.

(*5*) The provisions of the Limitation Act, 1963, shall, except as otherwise provided in this Act, apply to an appeal made to the Tribunal. 36 of 1963.

(*6*) Any person aggrieved by any decision or order of the Tribunal may file an appeal to the High Court within sixty days from the date of communication of the decision or order of the Tribunal to him on any question of fact or law arising out of such order:

Provided that the High Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.

Civil court not to have jurisdiction.

72. No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which an Adjudicating Officer or the Tribunal is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

Power of court to try cases summarily.

73. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences not triable by a Special Court, shall be tried in a summary way by a Judicial Magistrate of the first class or by a Metropolitan Magistrate and the provisions of sections 262 to 265 (both inclusive) of the said Code shall, as far as may be, apply to such a trial: 2 of 1974.

Provided that in the case of any conviction in a summary trial under this section, it shall be lawful for the Magistrate to pass a sentence of imprisonment for a term not exceeding one year:

Provided further that when at the commencement of, or in the course of, a summary trial under this section, it appears to the Magistrate that the nature of the case is such that a sentence of imprisonment for a term exceeding one year may have to be passed or that it is, for any other reason, undesirable to try the case summarily, the Magistrate shall after hearing the parties, record an order to that effect and thereafter recall any witness who may have been examined and proceed to hear or rehear the case in the manner provided by the said Code.

Special courts and Public Prosecutor.

74. (*1*) Notwithstanding anything contained in this Act or in the Code of Criminal Procedure, 1973, the Central Government or the State Government in their respective jurisdictions may, if consider expedient and necessary in the public interest, for the purposes of the trial of offences relating to grievous injury or death of the consumer for which punishment of imprisonment for more than three years has been prescribed under this Act, constitute, by notification in the Official Gazette, as many Special Courts with the concurrence of the Chief Justice of the High Court as may be necessary for such area or areas and for exercising such jurisdiction, as may be specified in the notification. 2 of 1974.

(2) A Special Court may, on its own motion, or on an application made by the Public Prosecutor and if it considers it expedient or desirable so to do, sit for any of its proceedings at any place other than its ordinary place of sitting.

(3) The trial under this Act of any offence by a Special Court shall have precedence over the trial of any other case against the accused in any other court (not being a Special Court) and shall be concluded in preference to the trial of such other case and accordingly the trial of such other case shall remain in abeyance.

(4) For every Special Court, the Central Government or the State Government, as the case may be, shall appoint a person to be the Public Prosecutor and may appoint more than one person to be the Additional Public Prosecutors:

Provided that the Central Government or the State Government, as the case may be, may also appoint for any case or class or group of cases, a Special Public Prosecutor.

(5) A person shall not be qualified to be appointed as a Public Prosecutor or an Additional Public Prosecutor or a Special Public Prosecutor under this section unless he has been in practice as an Advocate for not less than seven years or has held any post, for a period of not less than seven years, under the Union or a State, requiring special knowledge of law.

Power to transfer cases to regular courts.

75. Where, after taking cognizance of any offence, a Special Court is of the opinion that the offence is not triable by it, it shall, notwithstanding that it has no jurisdiction to try such offence, transfer the case for the trial of such offence to any court having jurisdiction under the Code of Criminal Procedure, 1973 and the court to which the case is transferred may proceed with the trial of the offence as if it had taken cognizance of the offence.

2 of 1974.

Appeal.

76. (1) Any person aggrieved by a decision or order of a Special Court may, on payment of such fee as may be prescribed by the Central Government and after depositing the amount, if any, imposed by way of penalty, compensation or damage under this Act, within forty-five days from the date on which the order was served, prefer an appeal to the High Court:

Provided that the High Court may entertain any appeal after the expiry of the said period of forty-five days, if it is satisfied that the appellant was prevented by sufficient cause for filing the appeal within the said period.

(2) An appeal preferred under this section shall be disposed of by the High Court by a bench of not less than two judges.

Time limit for prosecutions.

77. Notwithstanding anything contained in this Act, no court shall take cognizance of an offence under this Act after the expiry of the period of one year from the date of commission of an offence:

Provided that the Commissioner of Food Safety may, for reasons to be recorded in writing, approve prosecution within an extended period of up to three years.

Power of court to implead manufacturer, etc.

78. Where at any time during the trial of any offence under this Act alleged to have been committed by any person, not being the importer, manufacturer, distributor or dealer of any article of food, the court, is satisfied, on the evidence adduced before it, that such importer, manufacturer, distributor or dealer is also concerned with that offence, then the court may, notwithstanding anything contained in sub-section (3) of section 319 of the Code of Criminal Procedure, 1973, or in section 71 of this Act, proceed against him as though a prosecution has been instituted under this Act.

2 of 1974.

Magistrate's power to impose enhanced punishment.

79. Notwithstanding anything contained in section 29 of the Code of Criminal Procedure, 1973, it shall be lawful for the court of ordinary jurisdiction to pass any sentence authorised by this Act, except a sentence of imprisonment for a term exceeding six years in excess of his powers under the said section.

2 of 1974.

Defences which may or may not be allowed in prosecution under this Act.

80. (A) Defence relating to publication of advertisements—

(*1*) In any proceeding for an offence under this Act in relation to the publication of an advertisement, it is a defence for a person to prove that the person carried on the business of publishing or arranging for the publication of advertisements and that the person published or arranged for the publication of the advertisement in question in the ordinary course of that business.

(*2*) Clause (*1*) does not apply if the person—

(*a*) should reasonably have known that the publication of the advertisement was an offence; or

(*b*) had previously been informed in writing by the relevant authority that publication of such an advertisement would constitute an offence; or

(*c*) is the food business operator or is otherwise engaged in the conduct of a food business for which the advertisements concerned were published.

(*B*) Defence of due diligence—

(*1*) In any proceedings for an offence, it is a defence if it is proved that the person took all reasonable precautions and exercised all due diligence to prevent the commission of the offence by such person or by another person under the person's control.

(*2*) Without limiting the ways in which a person may satisfy the requirements of clause (*1*), a person satisfies those requirements if it is proved—

(*a*) that the commission of the offence was due to—

(*i*) an act or default of another person; or

(*ii*) reliance on information supplied by another person; and

(*b*) (*i*) the person carried out all such checks of the food concerned as were reasonable in all the circumstances; or

(*ii*) it was reasonable in all the circumstances to rely on checks carried out by the person who supplied such food to the person; and

(*c*) that the person did not import the food into the jurisdiction from another country; and

(*d*) in the case of an offence involving the sale of food, that—

(*i*) the person sold the food in the same condition as and when the person purchased it; or

(*ii*) the person sold the food in a different condition to that in which the person purchased it, but that the difference did not result in any contravention of this Act or the rules and regulations made thereunder; and

(*e*) that the person did not know and had no reason to suspect at the time of commission of the alleged offence that the person's act or omission would constitute an offence under the relevant section.

(*3*) In sub-clause (*a*) of clause (*2*), another person does not include a person who was—

(*a*) an employee or agent of the defendant; or

(*b*) in the case of a defendant which is a company, a director, employee or agent of that company.

(*4*) Without limiting the ways in which a person may satisfy the requirements of clause (*1*) and item (*i*) of sub-clause (*b*) of clause (*2*), a person may satisfy those requirements by proving that—

(*a*) in the case of an offence relating to a food business for which a food safety programme is required to be prepared in accordance with the regulations, the person complied with a food safety programme for the food business that complies with the requirements of the regulations, or

(*b*) in any other case, the person complied with a scheme (for example, a quality assurance programme or an industry code of practice) that was—

(*i*) designed to manage food safety hazards and based on national or international standards, codes or guidelines designed for that purpose, and

(*ii*) documented in some manner.

(*C*) Defence of mistaken and reasonable belief not available—

In any proceedings for an offence under the provisions of this Act, it is no defence that the defendant had a mistaken but reasonable belief as to the facts that constituted the offence.

(*D*) Defence in respect of handling food—

In proceedings for an offence under section 56, it is a defence if it is proved that the person caused the food to which the offence relates to be destroyed or otherwise disposed of immediately after the food was handled in the manner that was likely to render it unsafe.

(*E*) Defences of significance of the nature, substance or quality of food—

It shall be no defence in a prosecution for an offence pertaining to the sale of any unsafe or misbranded article of food to allege merely that the food business operator was ignorant of the nature, substance or quality of the food sold by him or that the purchaser having purchased any article for analysis was not prejudiced by the sale.

CHAPTER XI

FINANCE, ACCOUNTS, AUDIT AND REPORTS

Budget of Food Authority.

81. (*1*) The Food Authority shall prepare, in such form and at such time in each financial year as may be prescribed by the Central Government, its budget for the next financial year, showing the estimated receipts and expenditure of the Food Authority and forward the same to the Central Government.

(*2*) The Food Authority with the prior approval of the Central Government, shall adopt financial regulation which specifies in particular, the procedure for drawing up and implementing the Authority's budget.

Finances of the Food Authority.

82. (*1*) The Central Government may, after due appropriation, make to the Food Authority grants of such sums of money as the Central Government may think fit.

(*2*) The Food Authority on the recommendation of the Central Advisory Committee shall specify a graded fee from licensed food business operators, accredited laboratories or food safety auditors to be charged by the Commissioner of Food Safety.

Accounts and audit of Food Authority.

83. (*1*) The Food Authority shall maintain proper accounts and relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

(*2*) The Comptroller and Auditor-General and any person appointed by him in connection with the audit of the accounts of the Food Authority under this Act shall have the same rights and privileges and authority in connection with such audit as the Comptroller

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and Auditor-General generally has in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Food Authority.

(*3*) The accounts of the Food Authority, as certified by the Comptroller and Auditor-General or any other person appointed by him in this behalf, together with the audit report thereon shall be forwarded annually to the Central Government by the Food Authority and the Central Government shall cause the audit report to be laid, as soon as may be after it is received, before each House of Parliament.

Annual report of Food Authority.

84. (*1*) The Food Authority shall prepare once every year, in such form and at such time as may be prescribed by the Central Government, an annual report giving a summary of its activities during the previous year and copies of the report shall be forwarded to the Central Government and State Governments.

(*2*) A copy of the report received under sub-section (*1*) shall be laid, as soon as may be after it is received, before each House of Parliament.

CHAPTER XII

MISCELLANEOUS

Power of Central Government to issue directions to Food Authority and obtain reports and returns.

85. (*1*) Without prejudice to the foregoing provisions of this Act, the Food Authority shall, in exercise of its powers and in performance of its functions under this Act, be bound by such directions on questions of policy, other than those relating to technical and administrative matters, as the Central Government may give in writing to it from time to time:

Provided that the Food Authority shall, as far as practicable, be given an opportunity to express its views before any direction is given under this sub-section.

(*2*) If any dispute arises between the Central Government and the Food Authority as to whether a question is or is not a question of policy, the decision of the Central Government thereon shall be final.

(*3*) The Food Authority shall furnish to the Central Government such returns or other information with respect to its activities as the Central Government may, from time to time, require.

Power of Central Government to give directions to State Governments.

86. The Central Government may give such directions, as it may deem necessary, to a State Government for carrying out all or any of the provisions of this Act and the State Government shall comply with such directions.

Members, officers of Food Authority and Commissioner of Food Safety to be public servants.

87. The Members, officers of the Food Authority and the Commissioners of Food Safety and their officers shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code. 45 of 1860.

Protection of action taken in good faith.

88. No suit, prosecution or other legal proceedings shall lie against the Central Government, the State Government, the Food Authority and other bodies constituted under this Act or any officer of the Central Government, the State Government or any member, officer or other employee of such Authority and bodies or any other officer acting under this Act for anything which is in good faith done or intended to be done under this Act or the rules or regulations made thereunder.

89. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.

Overriding effect of this Act over all other food related laws.

90. On and from the date of establishment of the Food Authority, every employee holding office under the Central Government Agencies administering food laws immediately before that date shall hold his office in the Food Authority by the same tenure and upon the same terms and conditions of service including remuneration, leave, provident fund, retirement and other terminal benefits as he would have held such office if the Food Authority had not been established and shall continue to do so as an employee of the Food Authority or until the expiry of the period of six months from that date if such employee opts not to be the employee of the Food Authority.

Transfer of existing employees of Central Government Agencies governing various food related Acts or Orders to Food Authority.

91. (*1*) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

Power of Central Government to make rules.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) salary, terms and conditions of service of Chairperson and Members other than *ex officio* Members under sub-section (*2*) and the manner of subscribing to an oath of office and secrecy under sub-section (*3*) of section 7;

(*b*) qualifications of Food Safety Officer under sub-section (*1*) of section 37;

(*c*) the manner of taking the extract of documents seized under sub-clause (*8*) of section 38;

(*d*) determination of cases for referring to appropriate courts and time-frame for such determination under sub-section (*4*) of section 42;

(*e*) qualifications of Food Analysts under section 45;

(*f*) the manner of sending sample for analysis and details of the procedure to be followed in this regard under sub-section (*1*) of section 47;

(*g*) the procedure to be followed in adjudication of cases under sub-section (*1*) of section 68;

(*h*) qualifications, terms of office, resignation and removal of Presiding Officer under sub-section (*4*), the procedure of appeal and powers of Tribunal under sub-section (*5*) of section 70;

(*i*) any other matter relating to procedure and powers of Tribunal under clause (*g*) of sub-section (*2*) of section 71;

(*j*) the fee to be paid for preferring an appeal to the High Court under sub-section (*1*) of section 76;

(*k*) form and time of preparing budget under sub-section (*1*) of section 81;

(*l*) form and statement of accounts under sub-section (*1*) of section 83;

(*m*) the form and time for preparing annual report by Food Authority under sub-section (*1*) of section 84; and

(*n*) any other matter which is required to be, or may be, prescribed or in respect of which provision is to be made by rules by the Central Government.

Power of Food Authority to make regulations.

92. (*1*) The Food Authority may, with the previous approval of the Central Government and after previous publication, by notification, make regulations consistent with this Act and the rules made thereunder to carry out the provisions of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(*a*) salaries and other conditions of service of officers and other employees of the Food Authority under sub-section (*3*) of section 9;

(*b*) rules of procedure for transaction of business under sub-section (*5*) of section 11;

(*c*) other functions of the Central Advisory Committee under sub-section (*2*) of section 12;

(*d*) procedure of Scientific Committee and Panels under sub-section (*4*) of section 15;

(*e*) notifying standards and guidelines in relation to articles of food meant for human consumption under sub-section (*2*) of section 16;

(*f*) procedure to be followed by Food Authority for transaction of business at its meetings under sub-section (*1*) of section 17;

(*g*) making or amending regulations in view of urgency concerning food safety or public health under clause (*d*) of sub-section (*2*) of section 18;

(*h*) limits of additives under section 19;

(*i*) limits of quantities of contaminants, toxic substance and heavy metals, etc., under section 20;

(*j*) tolerance limit of pesticides, veterinary drugs residues, etc., under section 21;

(*k*) the manner of marking and labelling of foods under section 23;

(*l*) form in which guarantee shall be given under sub-section (*4*) of section 26;

(*m*) conditions and guidelines relating to food recall procedures under sub-section (*4*) of section 28;

(*n*) regulations relating to functioning of Food Safety Officer under sub-section (*5*) of section 29;

(*o*) notifying the registering authority and the manner of registration; the manner of making application for obtaining licence, the fees payable therefor and the circumstances under which such licence may be cancelled or forfeited under section 31;

(*p*) the respective areas of which the Designated Officer shall be in-charge for food safety administration under sub-section (*1*) of section 36;

(*q*) procedure in getting food analysed, details of fees, etc., under sub-section (*1*) of section 40;

(*r*) functions, procedure to be followed by food laboratories under sub-section (*3*) of section 43;

(*s*) procedure to be followed by officials under sub-section (*6*) of section 47;

(*t*) financial regulations to be adopted by the Food Authority in drawing up its budget under sub-section (*2*) of section 81;

(*u*) issue guidelines or directions for participation in Codex Meetings and preparation of response to Codex matters; and

(*v*) any other matter which is required to be, or may be, specified by regulations or in respect of which provision is to be made by regulations.

93. Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation. Laying of rules and regulations before Parliament.

94. (*1*) Subject to the powers of the Central Government and the Food Authority to make rules and regulations respectively, the State Government may, after previous publication and with the previous approval of the Food Authority, by notification in the Official Gazette, make rules to carry out the functions and duties assigned to the State Government and the State Commissioner of Food Safety under this Act and the rules and regulations made thereunder. Power of State Government to make rules.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) other functions of the Commissioner of Food Safety under clause (*f*) of sub-section (*2*) of section 30;

(*b*) earmarking a fund and the manner in which reward shall be paid to a person rendering assistance in detection of offence or apprehension of offender under section 95; and

(*c*) any other matter which is required to be, or may be prescribed or in respect of which provision is to be made by rules by the State Government.

(*3*) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses or where such State Legislature consists of one House, before that House.

95. The State Government may empower the Commissioner of Food Safety to order payment of reward to be paid to a person who renders assistance in the detection of the offence or the apprehension of the offender, from such fund and in such manner as may be prescribed by the State Government. Reward by State Government.

96. A penalty imposed under this Act, if it is not paid, shall be recovered as an arrear of land revenue and the defaulters licence shall be suspended till the penalty is paid. Recovery of penalty.

97. (*1*) With effect from such date as the Central Government may appoint in this behalf, the enactment and Orders specified in the Second Schedule shall stand repealed: Repeal and savings.

Provided that such repeal shall not affect:—

(*i*) the previous operations of the enactment and Orders under repeal or anything duly done or suffered thereunder; or

(*ii*) any right, privilege, obligation or liability acquired, accrued or incurred under any of the enactment or Orders under repeal; or

(*iii*) any penalty, forfeiture or punishment incurred in respect of any offences committed against the enactment and Orders under repeal; or

(*iv*) any investigation or remedy in respect of any such penalty, forfeiture or punishment,

and any such investigation, legal proceedings or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed, as if this Act had not been passed:

(2) If there is any other law for the time being in force in any State, corresponding to this Act, the same shall upon the commencement of this Act, stand repealed and in such case, the provisions of section 6 of the General Clauses Act, 1897 shall apply as if such provisions of the State law had been repealed. 10 of 1897.

(3) Notwithstanding the repeal of the aforesaid enactment and Orders, the licences issued under any such enactment or Order, which are in force on the date of commencement of this Act, shall continue to be in force till the date of their expiry for all purposes, as if they had been issued under the provisions of this Act or the rules or regulations made thereunder.

(4) Notwithstanding anything contained in any other law for the time being in force, no court shall take cognizance of an offence under the repealed Act or Orders after the expiry of a period of three years from the date of the commencement of this Act.

Transitory provisions for food standards.

98. Notwithstanding the repeal of the enactment and Orders specified in the Second Schedule, the standards, safety requirements and other provisions of the Act and the rules and regulations made thereunder and Orders listed in that Schedule shall continue to be in force and operate till new standards are specified under this Act or rules and regulations made thereunder:

Provided that anything done or any action taken under the enactment and Orders under repeal shall be deemed to have been done or taken under the corresponding provisions of this Act and shall continue in force accordingly unless and until superseded by anything done or by any action taken under this Act.

Milk and Milk Products Order, 1992 shall be deemed to be regulations made under this Act.

99. (1) On and from the date of commencement of this Act, the Milk and Milk Products Order, 1992 issued under the Essential Commodities Act, 1955 shall be deemed to be the Milk and Milk Products Regulations,1992 issued by the Food Authority under this Act. 10 of 1955.

(2) The Food Authority may, with the previous approval of the Central Government and after previous publication, by notification, amend the regulations specified in sub-section (1) to carry out the purposes of this Act.

Amendments to the Infant Milk Substitutes, Feeding Bottles and Infant Foods (Regulation of Production, Supply and Distribution) Act, 1992.

100. As from the notified day, the provisions of the Infant Milk Substitutes, Feeding Bottles and Infant Foods (Regulation of Production, Supply and Distribution) Act, 1992 (herein referred to as the principal Act) shall apply subject to the following amendments, namely:— 41 of 1992.

(a) throughout the principal Act, any reference to "the Prevention of the Food Adulteration Act, 1954" shall be substituted by reference to "the Food Safety and Standards Act, 2006"; 37 of 1954.

(b) in section 12 of the principal Act, the reference to "any Food Inspector appointed under section 9 of the Prevention of the Food Adulteration Act, 1954" shall be substituted by reference to "any Food Safety Officer appointed under the Food Safety and Standards Act, 2006"; 37 of 1954.

(c) throughout the principal Act, any reference to "Food Inspector" shall be substituted by the expression "the Food Safety Officer"; and

(d) in section 21 of the principal Act, in sub-section (1), the reference to clause (a) shall be substituted by the following, namely:—

"(a) the Designated Officer or the Food Safety Officer directed under sub-section (5) of section 42 of the Food Safety and Standards Act, 2006; or ".

Power to remove difficulties.

101. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as may appear to be necessary, for removing the difficulty:

Provided that no order shall be made under this section after the expiry of the period of three years from the date of commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

THE FIRST SCHEDULE

[*See* section 5 (*1*) (*e*)]

Zone I

1. Andhra Pradesh
2. Goa
3. Karnataka
4. Kerala
5. Maharashtra
6. Orissa
7. Tamil Nadu

Zone II

1. Haryana
2. Himachal Pradesh
3. Jammu and Kashmir
4. Punjab
5. Uttaranchal
6. Uttar Pradesh

Zone III

1. Bihar
2. Chhattisgarh
3. Gujarat
4. Jharkhand
5. Madhya Pradesh
6. Rajasthan
7. West Bengal

Zone IV

1. Arunachal Pradesh
2. Assam
3. Manipur
4. Meghalaya
5. Mizoram
6. Nagaland
7. Sikkim
8. Tripura

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Zone V

1. Andaman and Nicobar Islands
2. Chandigarh
3. Dadra and Nagar Haveli
4. Daman and Diu
5. Delhi
6. Lakshadweep
7. Pondicherry.

THE SECOND SCHEDULE

(*See* section 97)

1. The Prevention of Food Adulteration Act, 1954 (37 of 1954).
2. The Fruit Products Order, 1955.
3. The Meat Food Products Order, 1973.
4. The Vegetable Oil Products (Control) Order, 1947.
5. The Edible Oils Packaging (Regulation) Order, 1998.
6. The Solvent Extracted Oil, De oiled Meal, and Edible Flour (Control) Order, 1967.
7. The Milk and Milk Products Order, 1992.
8. Any other order issued under the Essential Commodities Act, 1955 (10 of 1955) relating to food.

Sd/-
K. N. CHATURVEDI,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

H. D. VYAS,
Secretary to Government.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.

Extra No. 7 REGISTERED No. G/GNR/2

सत्यमेव जयते

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Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART VI

Acts of Parliament and Ordinances promulgated by the President

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 29th January, 2007.

No.RPB-11-2007/Act-41-06/E :— The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 14th September, 2006/Bhadra 23, 1928 (Saka)

The following Act of Parliament has received the assent of the President On the 13th September, 2006, is hereby published for general information :-

THE CANTONMENTS ACT, 2006

AN ACT

(Act No. 41 of 2006) (13th September, 2006)

to consolidate and amend the law relating to the administration of cantonments with a view to impart greater democratisation, improvement of their financial base to make provisions for developmental activities and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title, extent and commencement.

1. (*1*) This Act may be called the Cantonments Act, 2006.

(*2*) It extends to the whole of India.

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act and any reference in any provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

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Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "Assistant Health Officer" means the medical officer appointed by the General Officer Commanding-in-Chief, the Command, to be the Assistant Health Officer for a cantonment;

(*b*) "Board" means a Cantonment Board constituted under this Act;

(*c*) "boundary wall" means a wall which abuts on a street and which does not exceed two and a half metres in height;

(*d*) "building" means a house, outhouse, stable, latrine, shed, hut or other roofed structure whether of masonry, brick, wood, mud, metal or other material, and any part thereof, and includes a well and a wall other than a boundary wall but does not include a tent or other portable and temporary shelter;

(*e*) "casual election" means an election held to fill a casual vacancy;

(*f*) "casual vacancy" means a vacancy occurring otherwise than by efflux of time in the office of an elected member of a Board and includes a vacancy in such office, arising under sub-section (*2*) of section 16;

(*g*) "Chief Executive Officer" means the person appointed under this Act to be the Chief Executive Officer of a cantonment;

(*h*) "civil area" means an area declared to be a civil area by the Central Government under sub-section (*1*) of section 46;

(*i*) "civil area committee" means a committee appointed under section 47;

(*j*) "Command" means one of the Commands into which India is for military purposes for the time being divided, and includes any area which the Central Government may, by notification in the Official Gazette, declare to be a Command for all or any of the purposes of this Act;

(*k*) "dairy" includes any farm, cattle-shed, milk-store, milk-shop or other place from which milk is supplied or in which milk is kept for purposes of sale or is manufactured for the sale into butter, ghee, cheese or curds, and, in relation to a dairyman who does not occupy any premises for the sale of milk, includes any place in which he keeps the vessels used by him for the storage or sale of milk;

(*l*) "dairyman" includes the keeper of a cow, buffalo, goat, ass or other animal, the milk of which is offered or is intended to be offered for sale for human consumption, and any supplier of milk and any occupier of a dairy;

(*m*) "dangerous disease" means cholera, leprosy, enteric fever, smallpox, tuberculosis, diphtheria, plague, influenza, venereal disease, hepatitis, Acquired Immune Deficiency Syndrome and any other epidemic, endemic, infectious or communicable disease which the Board may by public notice, declare to be, an infectious, contagious or communicable disease for the purposes of this Act;

(*n*) "Defence Estates Circle" means one of the circles into which India is, for the purposes of defence estates management, for the time being divided, and includes any area which the Central Government may, by notification in the Official Gazette, declare to be a Defence Estates Circle for all or any of the purposes of this Act;

(*o*) "Defence Estates Officer" means the officer appointed by the Central Government to perform the duties of the Defence Estates Officer for the purpose of this Act and the rules made thereunder;

(*p*) "Director General" means an officer of the Indian Defence Estates Service (IDES) appointed by the Central Government to perform the duties of the Director General, Defence Estates for the purpose of this Act and includes Senior Additional Director General and Additional Director General;

(*q*) "Director" means the officer appointed by the Central Government to perform the duties of the Director, Defence Estates, the Command, for the purposes of this Act and the rules made thereunder;

(*r*) "entitled consumer" means a person in a cantonment who is paid from the Defence Service Estimates and is authorised by general or special order of the Central Government to receive a supply of water for domestic purposes from the Military Engineer Services or the Public Works Department on such terms and conditions as may be specified in the order;

(*s*) "Executive Engineer" means the officer of the Military Engineer Services of that grade, having charge of the military works in a cantonment or where more than one such officer has charge of the military works in a cantonment such one of those officers as the Officer Commanding the station may designate in this behalf, and includes the officer of whatever grade in immediate executive engineering charge of a cantonment;

(*t*) "factory" means a factory as defined in clause (*m*) of section 2 of the Factories Act, 1948;

63 of 1948.

(*u*) "Forces" means the regular Army, Navy and Air Force or any part of any one or more of them;

(*v*) "General Officer Commanding-in-Chief, the Command" (GOC-in-C, Command) means the Officer Commanding any of the Commands;

(*w*) "General Officer Commanding the Area" means the Officer Commanding any one of the areas into which India is for military purposes for the time being divided, or any sub-area which does not form part of any such area, or any area which the Central Government may, by notification in the Official Gazette, declare to be an area for all or any of the purposes of this Act;

(*x*) "Group Housing" means a group of houses for dwelling purposes and may comprise all or any of the following: namely, (*a*) a dwelling unit, (*b*) open spaces intended for recreation and ventilation, (*c*) roads, paths, sewers, drains, water supply and ancillary installations, street lighting and other amenities, (*d*) convenient shopping place, schools, community hall or other amenities for common use;

(*y*) "Government" in relation to this Act means the Central Government;

(*z*) "Health Officer" means the senior executive medical officer in military employ on duty in a cantonment;

(*za*) "hospital" includes family welfare centre, child welfare centre, maternity centre and health centre;

(*zb*) "hut" means any building, no material portion of which above the plinth level is constructed of masonry or of squared timber framing or of iron framing;

(*zc*) "inhabitant", in relation to a cantonment, or local area means any person ordinarily residing or carrying on business or owning or occupying immovable property therein, or declared as such by the Chief Executive Officer and in case of a dispute, as decided by the District Magistrate;

(*zd*) "intoxicating drug" includes a narcotic drug and psychotropic substance as defined in the Narcotic Drugs and Psychotropic Substances Act, 1985 as modified from time to time;

61 of 1985.

(*ze*) "market" includes any place where persons assemble for the sale of, or for the purpose of exposing for sales, meat, fish, fruits, vegetables, animals intended for human food or any other articles of human food whatsoever, with or without the consent of the owner of such place notwithstanding that there may be no common

regulation for the concourse of buyers and sellers and whether or not any control is exercised over the business of, or the persons frequenting, the market by the owner of the place or by any other person, but shall not include a single shop or group of shops not being more than six in number and shops within unit lines;

(*zf*) "military" includes Air Force, Navy and other defence related establishments;

(*zg*) "military officer" means a person who, being an officer within the meaning of the Army Act, 1950, the Navy Act, 1957 or the Air Force Act, 1950, is commissioned, gazetted or in pay as an officer doing army, naval or air force duty with the army, navy or air force, or is an officer doing such duty in any arm, branch or part of any of those forces; 46 of 1950. 62 of 1957. 45 of 1950.

(*zh*) "nuisance" includes any act, omission, place, animal or thing which causes or is likely to cause injury, danger, annoyance or offence to the sense of sight, smell or hearing or disturbance to rest or sleep, or which is or may be dangerous to life or injurious to health or property;

(*zi*) "occupier" includes an owner in occupation of, or otherwise using his own land or building;

(*zj*) "Officer Commanding the station or Station Commander" means the military officer for the time being in command of the forces in a cantonment and if such officer is likely to be absent for more than thirty days, the General Officer Commanding-in-Chief, the Command may nominate, by an order, another military officer as "Officer Commanding the station or Station Commander";

(*zk*) "ordinary election" means an election held to fill a vacancy in the office of an elected member of a Board arising by efflux of time;

(*zl*) "owner" includes any person who is receiving or is entitled to receive the rent of any building or land whether on his own account or on behalf of himself and others or an agent or trustee, or who would so receive the rent or be entitled to receive it if the building or land were let to a tenant;

(*zm*) "party wall" means a wall forming part of a building and used or constructed to be used for the support or separation of adjoining buildings belonging to different owners, or constructed or adapted to be occupied by different persons;

(*zn*) "Principal Director" means the Officer appointed by the Central Government to perform the duties of the Principal Director, Defence Estates, the Command for the purpose of this Act and the rules made thereunder;

(*zo*) "private market" means a market which is not maintained by a Board and which is licensed by a Board under the provisions of this Act;

(*zp*) "private slaughter-house" means a slaughter-house which is not maintained by a Board and which is licensed by a Board under the provisions of this Act;

(*zq*) "public market" means a market maintained by a Board;

(*zr*) "public place" means any place which is open to the use and enjoyment of the public, whether it is actually used or enjoyed by the public or not;

(*zs*) "public slaughter-house" means a slaughter-house maintained by a Board;

(*zt*) "resident", in relation to a cantonment, means a person who maintains therein a house or a portion of a house which is at all times available for occupation by himself or his family even though he may himself reside elsewhere, provided that he has not abandoned all intention of again occupying such house either by himself or his family;

(*zu*) "regulation" means a regulation made by a Cantonment Board under this Act by notification in the Official Gazette;

(*zv*) "rule" means a rule made by the Central Government under this Act by notification in the Official Gazette;

(*zw*) "shed" means a slight or temporary structure for shade or shelter;

(*zx*) "slaughter-house" means any place ordinarily used for the slaughter of animals for the purpose of selling the flesh thereof for human consumption;

46 of 1950.
62 of 1957.
45 of 1950.

(*zy*) "soldier" means any person who is a soldier or sailor or an airman subject to the Army Act, 1950, the Navy Act, 1957 or the Air Force Act, 1950, as the case may be, and who is not a military officer;

(*zz*) "spirituous liquor" means any fermented liquor, any wine, or any alcoholic liquid obtained by distillation or the sap of any kind of palm tree, and includes any other liquid containing alcohol which the Central Government may, by notification in the Official Gazette, declare to be a spirituous liquor for the purposes of this Act;

(*zza*) "street" includes any way, road, lane, square, court, alley or passage in a cantonment, whether a thoroughfare or not and whether built upon or not, over which the public have a right of way and also the road-way or foot-way over any bridge or cause way;

(*zzb*) "sub-area" means one of the sub-areas into which India is for military purposes for the time being divided and includes, for all or any of the purposes of this Act, any territory which the Central Government may, by notification in the Official Gazette, declare to be a sub-area for such purposes;

(*zzc*) "trade or commercial premises" means any premises used or intended to be used for carrying on any trade, commerce or industry;

(*zzd*) "vehicle" means a wheeled conveyance of any description which is capable of being used on a street, and includes a motor-car, motor lorry, motor omnibus, cart, locomotive, tram-car, hand-cart, truck, motor-cycle, bicycle, tricycle and rickshaw;

(*zze*) "water-works" includes all lakes, tanks, streams, cisterns, springs, pumps, wells, reservoirs, aqueducts, water-trucks, sluices mains, pipes, culverts, hydrants, stand-pipes, and conduits and all machinery, lands, buildings, bridges and things used for, or intended for the purpose of supplying water to a cantonment; and

(*zzf*) "year" means the year commencing on the first day of April.

CHAPTER II
DEFINITION AND DELIMITATION OF CANTONMENT

Definition of cantonments.

3. (*1*) The Central Government may, by notification in the Official Gazette, declare any place or places along with boundaries in which any part of the Forces is quartered or which, being in the vicinity of any such place or places, is or are required for the service of such forces to be a cantonment for the purposes of this Act and of all other enactments for the time being in force, and may, by a like notification, declare that any cantonment shall cease to be a cantonment.

(*2*) The Central Government may, by a like notification, define the limits of any cantonment for the aforesaid purposes.

(*3*) When any place is declared a cantonment under sub-section (*1*), the Central Government shall constitute a Board within a period of one year in accordance with the provisions of this Act:

Provided that the Central Government may, for the reasons to be recorded in writing, extend the said period of one year for a further period of six months at a time:

Provided further that the Central Government may, until a Board is constituted, by order make necessary provisions for the efficient administration of the cantonment.

(4) The Central Government may, by notification in the Official Gazette, direct that in any place declared a cantonment under sub-section (1) the provisions of any enactment relating to local self-government other than this Act shall have effect only to such extent or subject to such modifications, or that any authority constituted under any such enactment shall exercise authority only to such extent, as may be specified in the notification.

Alteration of limits of cantonments.

4. (1) The Central Government may after consulting the State Government and the Board concerned, by notification in the Official Gazette, declare its intention to include within the cantonment any local area situated in the vicinity thereof or to exclude from the cantonment any local area comprised therein.

(2) Any inhabitant of a cantonment or local area in respect of which notification has been published under sub-section (1) may, within eight weeks from the date of notification, submit in writing to the Central Government through the General Officer Commanding-in-Chief, the Command, an objection to the notification, and the Central Government shall take such objection into consideration.

(3) On the expiry of eight weeks from the date of the notification, the Central Government may after considering the objections, if any, which have been submitted under sub-section (2), by notification in the Official Gazette, include the local area in respect of which the notification was published under sub-section (1), or any part thereof, in the cantonment or, as the case may be, exclude such area or any part thereof from the cantonment.

The effect of including area in cantonment.

5. When, by a notification under section 4, any local area is included in a cantonment, such area shall thereupon become subject to this Act and to all other enactments for the time being in force throughout the cantonment and to all notifications, rules, regulations, bye-laws, orders and directions issued or made thereunder.

Disposal of cantonment fund and cantonment development fund when area ceases to be a cantonment.

6. (1) When, by a notification under section 3, any cantonment ceases to be a cantonment and the local area comprised therein is immediately placed under the control of a local authority, the balance of the cantonment fund or the cantonment development fund and other property vesting in the Board shall vest in such local authority, and the liabilities of the Board shall be transferred to such local authority.

(2) When, in like manner, any cantonment ceases to be a cantonment and the local area comprised therein is not immediately placed under the control of a local authority, the balance of the cantonment fund or the cantonment development fund and other property vesting in the Board shall vest in the Central Government, and the liabilities of the Board shall be transferred to that Government.

Disposal of cantonment fund and cantonment development fund when area ceases to be included in a cantonment.

7. (1) When, by a notification under section 4, any local area forming part of a cantonment ceases to be under the control of a particular Board and is immediately placed under the control of some other local authority, such portion of the cantonment fund or the cantonment development fund and other property vesting in the Board and such portion of the liabilities of the Board, as the Central Government may, by general or special order, direct, shall be transferred to that other local authority.

(2) When, in like manner, any local area forming part of a cantonment ceases to be under the control of a particular Board and is not immediately placed under the control of some other local authority; such portion of the cantonment fund or the cantonment development fund and other property vesting in the Board shall vest in the Central Government, and such portion of the liabilities of the Board shall be transferred to that Government, as the Central Government may, by general or special order, direct.

Application of funds and property transferred under sections 6 and 7.

8. Any cantonment fund or a cantonment development fund or a portion thereof or other property of a Board vesting in the Central Government under the provisions of section 6 or section 7 shall be applied in the first place to satisfy any liabilities of the Board transferred under such provisions to that Government, and in the second place for the benefit of the inhabitants of the local area which has ceased to be a cantonment or, as the case may be, part of a cantonment.

Limitation of operation of Act.

9. The Central Government may, by notification in the Official Gazette, exclude from the operation of any part of this Act the whole or any part of a cantonment, or direct that any provision of this Act shall, in the case of any cantonment —

(*a*) situated within the limits of a metropolitan area; or

(*b*) in which the Board is superseded under section 60,

apply with such modification as may be so specified.

CHAPTER III

CANTONMENT BOARDS

Boards

Cantonment Board.

10. (*1*) For every cantonment there shall be a Cantonment Board.

(*2*) Every Board shall be deemed to be a municipality under clause (*e*) of article 243P of the Constitution for the purposes of—

(*a*) receiving grants and allocations; or

(*b*) implementing the Central Government schemes of social welfare, public health, hygiene, safety, water supply, sanitation, urban renewal and education.

Incorporation of Cantonment Board.

11. Every Board shall, by the name of the place by reference to which the cantonment is known, be a body corporate having perpetual succession and a common seal with power to acquire and hold property both movable and immovable and to contract and shall by the said name, sue and be sued.

Constitution of Cantonment Boards.

12. (*1*) Cantonments shall be divided into four categories, namely:—

(*i*) Category I Cantonments, in which the population exceeds fifty thousand;

(*ii*) Category II Cantonments, in which the population exceeds ten thousand, but does not exceed fifty thousand;

(*iii*) Category III Cantonments, in which the population exceeds two thousand five hundred, but does not exceed ten thousand; and

(*iv*) Category IV Cantonments, in which the population does not exceed two thousand five hundred.

(*2*) For the purposes of sub-section (*1*), the population shall be calculated in accordance with the latest official census, or, if the Central Government, by general or special order, so directs, in accordance with a special census taken for the purpose.

(*3*) In Category I Cantonments, the Board shall consist of the following members, namely:—

(*a*) the Officer Commanding the station as *ex officio* or, if the Central Government so directs in respect of any cantonment, such other military officer as may be nominated in his place by the General Officer Commanding-in-Chief, the Command;

(*b*) the District Magistrate or an Executive Magistrate not below the rank of Additional District Magistrate nominated by him;

(*c*) the Chief Executive Officer;

(*d*) the Health Officer *ex officio*;

(*e*) the Executive Engineer *ex officio*;

(*f*) three military officers nominated by name by the Officer Commanding the station by order in writing;

(*g*) eight members elected under this Act.

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(*4*) In Category II Cantonments, the Board shall consist of the following members, namely:—

(*a*) the Officer Commanding the station as *ex officio* or, if the Central Government so directs in respect of any cantonment, such other military officer as may be nominated in his place by the General Officer Commanding-in-Chief, the Command;

(*b*) the District Magistrate or an Executive Magistrate not below the rank of Additional District Magistrate nominated by him;

(*c*) the Chief Executive Officer;

(*d*) the Health Officer *ex officio*;

(*e*) the Executive Engineer *ex officio*;

(*f*) two military officers nominated by name by the Officer Commanding the station by order in writing;

(*g*) seven members elected under this Act.

(*5*) In Category III Cantonments, the Board shall consist of the following members, namely:—

(*a*) the Officer Commanding the station as *ex officio* or, if the Central Government so directs in respect of any cantonment, such other military officer, as may be nominated in his place by the General Officer Commanding-in-Chief, the Command;

(*b*) the District Magistrate or an Executive Magistrate nominated by him;

(*c*) the Chief Executive Officer;

(*d*) the Health Officer *ex officio*;

(*e*) the Executive Engineer *ex officio*;

(*f*) one military officer nominated by name by the Officer Commanding the station by order in writing;

(*g*) six members elected under this Act.

(*6*) In Category IV Cantonments, the Board shall consist of the following members, namely:—

(*a*) the Officer Commanding the station *ex officio* or, if the Central Government so directs in respect of any cantonment, such other military officer as may be nominated in his place by the General Officer Commanding-in-Chief, the Command;

(*b*) the Chief Executive Officer;

(*c*) two members elected under this Act.

(*7*) The Officer Commanding the station may, if he thinks fit, with the sanction of the General Officer Commanding-in-Chief, the Command, nominate in place of any military officer whom he is empowered to nominate under clause (*f*) of sub-section (*3*), clause (*f*) of sub-section (*4*) or clause (*f*) of sub-section (*5*), any person, whether in the service of the Government or not, who is ordinarily resident in the cantonment or in the vicinity thereof.

(*8*) Every election or nomination of a member of a Board and every vacancy in the elected membership thereof shall be notified by the Central Government in the Official Gazette;

(*9*) The Member of Parliament and Member of Legislative Assembly representing constituencies which comprises wholly or partly the cantonment area, shall be special invitees for the meetings of the Board but without a right to vote.

Power to vary constitution of Boards in special circumstances.

13. (*1*) Notwithstanding anything contained in section 12, if the Central Government is satisfied,—

(*a*) that by reason of military operations, it is necessary, or

(*b*) that, for the administration of the cantonment, it is desirable, to vary the constitution of the Board in any cantonment under this section, the Central Government may, by notification in the Official Gazette, make a declaration to that effect.

(*2*) Upon the making of a declaration under sub-section (*1*), the Board in the cantonment shall consist of the following members, namely:—

(*a*) the Officer Commanding the station,

(*b*) the Chief Executive Officer, and

(*c*) one member, not being a person in the service of the Government, nominated by the Central Government in consultation with the General Officer Commanding-in-Chief, the Command.

(*3*) The nomination of a member of a Board constituted under this section, and the vacancy in the membership thereof shall be notified by the Central Government in the Official Gazette.

(*4*) The term of office of a Board constituted by a declaration under sub-section (*1*) shall not ordinarily extend beyond one year:

Provided that the Central Government may from time to time, by a like declaration, extend the term of office of such a Board by any period not exceeding one year at a time:

Provided also that the Central Government shall forthwith direct that the term of office of such a Board shall cease if, in the opinion of the Central Government, the reasons stated in the declaration whereby such Board was constituted or its term of office was extended, have ceased to exist.

(*5*) When the term of office of a Board constituted under this section has expired or ceased, the Board shall be replaced by the former Board which, but for the declaration under sub-section (*1*) or sub-section (*4*), would have continued to hold office, or , if the term of office of such former Board has expired, by a Board constituted under section 12.

Term of office of members.

14. (*1*) Save as otherwise provided in this section, the term of office of a member of a Board shall be five years and shall commence—

(*a*) in case of an elected member, from the date of notification of his election under sub-section (*8*) of section 12, or from the date on which the vacancy has occurred to which he is elected, whichever is later; and

(*b*) in case of a nominated member, from the date of nomination under clauses (*b*) and (*f*) of sub-section (*3*), clauses (*b*) and (*f*) of sub-section (*4*) and clauses (*b*) and (*f*) of sub-section (*5*) of section 12, or the date of vacancy under clause (*b*) of sub-section (*1*) of section 18, whichever is later, and the member so nominated shall be able to take part in the proceedings of the Board:

Provided that the Central Government may, when satisfied that it is necessary in order to avoid administrative difficulty, extend the term of office of all the elected members of a Board by such period not exceeding one year, as it thinks fit:

Provided further that a member whose term of office has been so extended, shall cease to hold office on the date of the notification of the election of his successor under sub-section (*8*) of section 12.

(*2*) The term of office of an *ex officio* member of a Board shall continue so long as he holds the office by virtue of which he is such a member.

(*3*) The term of office of a member elected to fill a casual vacancy shall commence from the date of the notification of his election, and shall continue so long only as the member in whose place he is elected would have been entitled to hold office if the vacancy had not occurred.

(*4*) An outgoing member shall, unless the Central Government otherwise directs, continue in office until the election of his successor is notified under sub-section (*8*) of section 12 or the nomination of his successor, as the case may be.

(*5*) Any outgoing member may, if qualified, be re-elected or re-nominated.

Filling of vacancies.

15. (*1*) Vacancies arising by efflux of time in the office of an elected member of a Board shall be filled by an ordinary election to be held on such date as the Central Government may, by notification in the Official Gazette, direct.

(*2*) A casual vacancy shall be filled by a casual election the date of which shall be fixed by the Central Government by notification in the Official Gazette, and shall be, as soon as may be, after the occurrence of the vacancy:

Provided that no casual election shall be held to fill a vacancy occurring within six months of any date on which the vacancy will occur by efflux of time, but such vacancy shall be filled at the next ordinary election.

Vacancies in special cases.

16. (*1*) If for any cause at an election no member is elected, or if the elected member is unwilling to serve on the Board, fresh election shall be held to fill up such vacancy.

(*2*) If a person is elected to more than one seat in a Board, then, unless he resigns all but one of the seats within fourteen days from the date on which he is declared elected, or where the dates on which he is declared elected are different in respect of different seats, from the last of such dates, all the seats shall become vacant.

(*3*) Vacancies arising in any of the following cases shall be filled by nomination by the Central Government after consultation with the General Officer Commanding-in-Chief, the Command, namely:—

(*a*) where at a casual election no member is elected;

(*b*) where at an election held when a Board is constituted for the first time no member or an insufficient number of members is elected or an elected member is unwilling to serve on the Board.

(*4*) For the purposes of sub-section (*2*) of section 15, a member nominated in pursuance of sub-section (*3*) of this section shall where there has been a division of the cantonment into wards, be deemed to have been elected by such ward as the Central Government may at the time of making the nomination or at any time thereafter declare.

(*5*) The term of office of a member nominated under this section shall expire at the time at which it would have expired if he had been elected at the casual election.

Oath or affirmation.

17. Every person who is by virtue of his office, or who is nominated or elected to be, a member of the Board shall, before taking his seat, make and subscribe at a meeting of the Board an oath or affirmation of his allegiance to the Constitution of India in the following form, namely:—

"I, A.B., having $\frac{\text{become}}{\text{been elected}}$ / been nominated a member of this Board, do $\frac{\text{swear in the name of God}}{\text{solemnly affirm}}$ that I will bear true faith and allegiance to the Constitution of India as by law established and that I will faithfully discharge the duty upon which I am about to enter.".

Resignation.

18. (*1*) (*a*) Any elected member of a Board who wishes to resign his office may give his resignation in writing to the President of the Board who shall forward it for acceptance and notification to the Central Government under intimation to the General Officer Commanding-in-Chief, the Command.

(*b*) Any nominated member of a Board who wishes to resign his office may forward his resignation in writing through the President of the Board to the General Officer Commanding-in-Chief, the Command for orders.

(*2*) If the Central Government or the General Officer Commanding-in-Chief, the Command, as the case may be, accepts the resignation, such acceptance shall be communicated to the Board, and thereupon the seat of the member resigning shall become vacant.

(*3*) Notwithstanding anything contained in sub-section (*2*), the resignation of any person elected to more than one seat in a Board from all but one of the seats in pursuance of sub-section (*2*) of section 16 shall take effect when such resignation is received by the President of the Board.

President and Vice-President.

19. (*1*) The Officer commanding the station if a member of the Board shall be the President of the Board:

Provided that when a military officer holding the office of the President ceases to be the Officer commanding the station merely by reason of a temporary absence from the station for a period not exceeding thirty consecutive days, he shall not vacate the office of President.

(*2*) Where the Officer commanding the station is not a member of the Board, the military officer nominated in his place under clause (*a*) of sub-section (*3*), sub-section (*4*), sub-section (*5*) or sub-section (*6*) of section 12 shall be the President of the Board.

(*3*) In every Board except in case of a Board falling under Category IV Cantonment there shall be a Vice-President elected by the elected members only from amongst them in accordance with such procedure as the Central Government may, by rule prescribe.

(*4*) In case of a Board falling under Category IV Cantonment, the Vice-President shall be elected by draw of lot under the supervision of the President of the Board in such manner as he may decide.

Term of office of Vice-President.

20. (*1*) The term of office of a Vice-President shall be five years or his residual term of office as a member, whichever is less.

(*2*) A Vice-President may resign his office by notice in writing to the President and, on the resignation being accepted by the Board, the office shall become vacant.

(*3*) A Vice-President may be removed from his office, at a special meeting convened for the purpose on a requisition for the same by not less than one-half of the elected members of the Board holding office, by a resolution passed by a majority of not less than two-thirds of the total number of elected members then holding office and attending and no member, other than an elected member, shall have the right to vote on the resolution:

Provided that in case of Category IV Cantonments, the Vice-President may be removed if a resolution to this effect is passed by the Board and the other elected member shall become the Vice-President.

Duties of President.

21. (*1*) It shall be the duty of the President of every Board—

(*a*) unless prevented by reasonable cause, to convene and preside at all meetings of the Board and to regulate the conduct of business thereat;

(*b*) to control, direct and supervise the financial and executive administration of the Board;

(*c*) to perform all the duties and exercise all the powers specifically imposed or conferred on the President by or under this Act; and

(*d*) subject to any restrictions, limitations and conditions imposed by this Act, to exercise executive power for the purpose of carrying out the provisions of this Act and to be directly responsible for the fulfilment of the purposes of this Act;

(*e*) in case of gross misconduct during the course of meeting, to suspend a member other than a Chief Executive Officer from attending the unconcluded part of the meeting of the Board.

(*2*) The President may, by order in writing, empower the Vice-President to exercise all or any of the powers and duties referred to in clause (*b*) of sub-section (*1*) other than any power, duty or function which he is by resolution of the Board expressly forbidden to delegate.

(*3*) The exercise or discharge of any powers, duties or functions delegated by the President under this section shall be subject to such restrictions, limitations and conditions, if any, as may be laid down by the President and to the control of, and to revision by, the President.

(*4*) Every order made under sub-section (*2*) shall forthwith be communicated to the Board and to the General Officer Commanding-in-Chief, the Command.

Duties of Vice-President.

22. (*1*) It shall be the duty of the Vice-President of every Board,—

(*a*) in the absence of the President and unless prevented by reasonable cause, to preside at meetings of the Board and when so presiding to exercise the authority of the President under sub-section (*1*) of section 21;

(*b*) during the incapacity or temporary absence of the President or pending his appointment or succession to perform any other duty and exercise any other power of the President; and

(*c*) to exercise any power and perform any duty of the President which may be delegated to him under sub-section (*2*) of section 21.

Allowances to Vice-President and members.

23. The Vice-President and each elected member of the Board shall be entitled to receive such allowances, as the Central Government may, by rule, prescribe.

Appointment of Chief Executive Officer.

24. (*1*) For every cantonment there shall be a Chief Executive Officer appointed by the Central Government or by such person as the Central Government may authorise in this behalf:

Provided that, in the event of temporary absence of the Chief Executive Officer, not exceeding ninety days, the Principal Director shall designate an officer under his jurisdiction to perform the duties of the Chief Executive Officer during such period.

(*2*) Not less than one-half of the salary of the Chief Executive Officer shall be paid by the Central Government and the balance from the cantonment fund.

(*3*) The Chief Executive Officer shall be the Member-Secretary of the Board and of every Committee of the Board.

Duties of Chief Executive Officer.

25. (*1*) Subject to the provisions of clause (*c*) and clause (*d*) of sub-section (*1*) of section 21, the Chief Executive Officer shall—

(*a*) exercise all the powers and perform all the duties conferred or imposed upon him by or under this Act or any other law for the time being in force;

(*b*) subject to any restrictions, limitations and conditions imposed by this Act, to exercise executive power to ensure that the administration of the Board is carried out in accordance with provisions of this Act;

(*c*) prescribe the duties of, and exercise supervision and control over the acts and proceedings of all, officers and employees of the Board;

(*d*) be responsible for the custody of all records of the Board;

(*e*) arrange for the performance of such duties relative to the proceedings of the Board or of any Committee of the Board or of any Committee of Arbitration constituted under this Act, as those bodies may respectively impose on him; and

(*f*) comply with every requisition of the Board on any matter pertaining to the administration of the cantonment.

Special power of Chief Executive Officer.

26. (*1*) The Chief Executive Officer may direct the execution of any work or the doing of any act, in public interest and in accordance with the provisions of this Act and the rules made thereunder, and incur such expenditure as may be necessary in executing such work or doing such act, as the case may be, subject to the financial limits which the Board may by resolution determine subject to general guidelines issued by the Director General, Defence Estates with the approval of the Central Government.

(*2*) The Chief Executive Officer may, in case of emergency, direct the execution of any work or the doing of any act which would ordinarily require the sanction of the Board and immediate execution or doing of which is in his opinion, necessary for the service or safety of the public, and may direct that the expense of executing such work or doing such act shall be paid from the cantonment fund:

Provided that—

(*a*) he shall not act under this section without the previous sanction of the President or, in his absence, of the Vice-President;

(*b*) he shall not act under this section in contravention of any order of the Board prohibiting the execution of any particular work or the doing of any particular act; and

(*c*) he shall report forthwith the action taken under this section and the reasons therefor to the Board.

Elections

Electoral rolls.

27. (*1*) The Board or, where a Board is not constituted in any place declared by notification under sub-section (*1*) of section 3 to be a cantonment, the Officer Commanding the station, shall prepare and publish an electoral roll showing the names of persons qualified to vote at elections to the Board and such roll shall be prepared, revised and finally published in such manner and on such date in each year as the Central Government may by rule prescribe.

(*2*) Every person whose name appears in the final electoral roll shall, so long as the roll remains in force, be entitled to vote at an election to the Board, and no other person shall be so entitled.

(*3*) When a cantonment has been divided into wards, the electoral roll shall be divided into separate lists for each ward.

(*4*) If a new electoral roll is not published in any year on the date prescribed, the Central Government may direct that the old electoral roll shall continue in operation until the new roll is published.

Qualification of electors.

28. (*1*) Every person who, on such date as may be fixed by the Central Government in this behalf by notification in the Official Gazette hereinafter in this section referred to as "the qualifying date", is not less than eighteen years of age and who has resided in the cantonment for a period of not less than six months immediately preceding the qualifying date shall, if not otherwise disqualified, be entitled to be enrolled as an elector.

Explanation.—When any place is declared a cantonment for the first time, or when any local area is first included in a cantonment, residence in the place or area comprising the cantonment on the aforesaid date shall be deemed to be residence in the cantonment for the purposes of this sub-section.

(*2*) A person notwithstanding that he is otherwise qualified, shall not be entitled to be enrolled as an elector if he on the qualifying date—

(*i*) is not a citizen of India, or

(*ii*) has been adjudged by a competent court to be of unsound mind, or

(*iii*) is an undischarged insolvent, or

(*iv*) has been sentenced by a Criminal Court to imprisonment for a term exceeding two years for an offence which is declared by the Central Government to be such as to unfit him to become an elector or has been sentenced by a Criminal Court for any offence under Chapter IXA of the Indian Penal Code: 45 of 1860.

Provided that any disqualification incurred by a person under clause (*iv*) shall terminate on the lapse of three years from the expiry of the sentence or order.

(*3*) If any person having been enrolled as an elector in any electoral roll subsequently becomes subject to any of the disqualifications referred to in sub-section (*2*), his name shall be removed from the electoral roll unless, in the case referred to in clause (*iv*), the disqualification is removed by the Central Government.

Qualification for being a member of the Board.

29. (*1*) Save as hereinafter provided, every person, not being a person holding any office of profit under the Government, whose name is entered on the electoral roll of a cantonment shall be qualified for election as a member of the Board in that cantonment.

(*2*) No person shall be qualified for nomination as a member of a Board if he is subject to any of the disqualifications specified in sub-section (*2*) of section 28.

(*3*) No person shall be qualified for being chosen whether by election or nomination as, and for being a member of a Board, if he—

(*a*) has been dismissed from the service of the Government and is debarred from re-employment therein, or is a dismissed employee of a Board;

(*b*) is debarred from practising his profession or calling by order of any competent authority;

(*c*) holds any place of profit in the gift or at the disposal of the Board, or is a police officer, or is the servant or employer of a member of the Board; or

(*d*) is interested in a subsisting contract made with, or in work being done for, the Board except as a shareholder other than a director in an incorporated company; or

(*e*) is an officer or employee, permanent or temporary, of a Board or of any other local authority; or

(*f*) is a member of any other local authority; or

(*g*) has, by the authority referred to in clause (*f*) of section 31, been found to have been guilty of any of the corrupt practices specified in sub-section (*2*) of section 30 unless a period of five years has elapsed since the date of the decision of the authority; or

(*h*) fails to pay any arrears of any kind due by him otherwise than as an agent, receiver, trustee or an executor, to the Board within thirty days after the notice in this behalf has been served upon him; or

(*i*) is disqualified under any other provision of this Act:

Provided that a person shall not be deemed to have any interest in such a contract or work as is referred to in clause (*d*) by reason only of his having a share or interest in—

(*a*) any lease or sale or purchase of immovable property or any agreement for the same; or

(*b*) any agreement for the loan of money or any security for the payment of money only; or

(*c*) any newspaper in which any advertisement relating to the affairs of the Board is inserted; or

(*d*) the sale to the Board of any articles in which he regularly trades or the purchase from the Board of any articles, to a value in either case not exceeding twenty-five thousand rupees in the aggregate in any year during the period of the contract or work.

30. (*1*) For the purposes of sections 27, 28 and 29, 'person' means an individual human being. Interpretation.

(*2*) The following shall be deemed to be corrupt practices within the meaning of clause (*g*) of sub-section (*3*) of section 29, namely:—

(*1*) "bribery" that is to say—

(*A*) any gift, offer or promise by a candidate or his agent or by any other person with the consent of a candidate or his agent of any gratification to any person whomsoever, with the object, directly or indirectly of inducing—

(*a*) a person to stand or not to stand as, or to withdraw or not to withdraw from being, a candidate at an election; or

(*b*) an elector to vote or refrain from voting at an election, or as a reward to—

(*i*) a person for having so stood or not stood, or for having withdrawn or not having withdrawn his candidature; or

(*ii*) an elector for having voted or refrained from voting;

(*B*) the receipt of, or agreement to receive, any gratification, whether as a motive or a reward—

(*a*) by a person for standing or not standing as, or for withdrawing or not withdrawing, from being a candidate; or

(*b*) by any person whomsoever for himself or any other person for voting or refraining from voting, or inducing or attempting to induce any elector to vote or refrain from voting, or any candidate to withdraw or not to withdraw his candidature.

Explanation.—For the purposes of this clause, the term "gratification" is not restricted to pecuniary gratifications or gratifications estimable in money and it includes all forms of entertainment and all forms of employment for reward but it does not include the payment of any expenses *bona fide* incurred at, or for the purpose of, any election.

(*2*) Undue influence, that is to say, any direct or indirect interference or attempt to interfere on the part of the candidate or his agent, or of any other person with the consent of the candidate or his agent with the free exercise of any electoral right:

Provided that—

(*a*) without prejudice to the generality of the provisions of this clause any such person as is referred to therein who—

(*i*) threatens any candidate or any elector, or any person in whom a candidate or an elector is interested, with injury of any kind including social ostracism and ex-communication or expulsion from any caste or community; or

(*ii*) induces or attempts to induce a candidate or an elector to believe that he, or any person in whom he is interested, will become or will be rendered an object of divine displeasure or spiritual censure, shall be deemed to interfere with the free exercise of the electoral right of such candidate or elector within the meaning of this clause;

(*b*) a declaration of public policy, or a promise of public action, or the mere exercise of a legal right without intent to interfere with an electoral right shall not be deemed to interfere within the meaning of this clause.

(*3*) The appeal by a candidate or his agent or by any other person with the consent of a candidate or his agent to vote or refrain from voting for any person on the ground of his religion, race, caste, community or language or the use of, or appeal to religious symbols or the use of, or appeal to, national symbols, such as national flag or the national emblem for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate.

(*4*) The promotion of, or attempt to promote, feelings of enmity or hatred between different classes of the citizens of India on grounds of religion, race, caste, community or language, by a candidate or his agent or any other person with the consent of a candidate or his agent for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate.

(*5*) The publication by a candidate or his agent or by any other person, with the consent of a candidate or his agent, of any statement of fact which is false, and which he either believes to be false or does not believe to be true, in relation to the personal character or conduct of any candidate, or in relation to the candidature, or withdrawal of any candidate, being a statement reasonably calculated to prejudice the prospects of that candidate's election.

(*6*) The hiring or procuring, whether on payment or otherwise, of any vehicle or vessel by a candidate or his agent or by any other person with the consent of a candidate or his agent or the use of such vehicle or vessel for the free conveyance of any elector other than the candidate himself, the members of his family or his agent to or from any polling station or place fixed for the poll:

Provided that the hiring of a vehicle or vessel by any elector or by several electors at their joint costs for the purpose of conveying him or them to and from any such polling station or place fixed for the poll shall not be deemed to be a corrupt practice under this clause if the vehicle or vessel so hired is a vehicle or vessel not propelled by mechanical power:

Provided further that the use of any public transport vehicle or vessel or any tramcar or railway carriage by any elector at his own cost for the purpose of going to or coming from any such polling station or place fixed for the poll shall not be deemed to be a corrupt practice under this clause.

Explanation.—In this clause, the expression "vehicle" means any vehicle used or capable of being used for the purpose of road transport, whether propelled by mechanical power or otherwise and whether used for drawing other vehicles or otherwise.

(7) The obtaining or procuring or abetting or attempting to obtain or procure by a candidate or his agent or, by any other person with the consent of a candidate or his agent, any assistance other than the giving of vote for the furtherance of the prospects of that candidate's election, from any person in the service of the Government or the Board:

Provided that where any person, in the service of the Government or the Board in the discharge or purported discharge of his official duty, makes any arrangements or provides any facilities or does any other act or thing, for, to, or in relation to, any candidate or his agent or any other person acting with the consent of the candidate or his agent whether by reason of the office held by the candidate or for any other reason, such arrangements, facilities or act or thing shall not be deemed to be assistance for the furtherance of the prospects of that candidate's election.

Explanation.—In this section, the expression "agent" includes any person who is held to have acted as an agent in connection with the election with the consent of the candidate.

Power to make rules regulating elections.

31. The Central Government may, either generally or specially for any cantonment or group of cantonments, after previous publication, make rules consistent with this Act to regulate all or any of the following matters for the purpose of the holding of elections under this Act, namely:—

(*a*) the division of a cantonment into wards;

(*b*) the determination of the number of members to be elected by each ward;

(*c*) the preparation, revision and final publication of electoral rolls;

(*d*) the reservation of wards for election of the Scheduled Castes, the Scheduled Tribes and women;

(*e*) the registration of electors, the nomination of candidates, the time and manner of holding elections and the method by which votes shall be recorded;

(*f*) the authority which may be an officer of the State Government by which and the manner in which disputes relating to electoral rolls or arising out of elections shall be decided, and the powers and duties of such authority and the circumstances in which such authority may declare a casual vacancy to have been created or any candidate to have been elected;

(*g*) the fee to be paid for admission and consideration of any application relating to election or election disputes;

(*h*) any other matter relating to elections or election disputes in respect of which the Central Government is empowered to make rules under this Chapter or in respect of which this Act makes no provision or makes insufficient provision and provision is, in the opinion of the Central Government, necessary.

Members

Member not to vote on matter in which he is interested.

32. (*1*) No member of a Board shall vote at a meeting of the Board or of any Committee of the Board on any question relating to his own conduct or vote or take part in any discussion on any matter, other than a matter affecting generally the inhabitants of the cantonment, which affects his own pecuniary interest or the valuation of any property in respect of which he is directly or indirectly interested, or of any property of or for which he is a manager or agent.

(*2*) Where any member of the Board present at the meeting of the Board or any committee of the Board believes that the person presiding over such meeting has pecuniary or other interest in any matter under discussion and moves a motion to that effect, the person so presiding—

(*a*) shall not be entitled to vote on such motion, and

(*b*) shall, if such motion is carried, absent himself from the meeting during such discussion.

Liability of members.

33. Every member of a Board shall be liable for the loss, waste or misapplication of any money or other property belonging to, vested in, or entrusted to the management of, the Board if such loss, waste or misapplication is a direct consequence of his neglect or misconduct while such member; and a suit for compensation for the same may be instituted against him either by the Board or by the Central Government.

Removal of members.

34. (*1*) The Central Government may remove from a Board any member thereof, who—

(*a*) becomes or is found to have been at the time of his election or nomination subject to any of the disqualifications specified in sub-section (*2*) of section 28 or in section 29; or

(*b*) has absented himself for more than three consecutive meetings or three months (whichever is later) of the Board and is unable to explain such absence to the satisfaction of the Board.

Explanation.—In computing the aforesaid period of three consecutive months, no account shall be taken of any period of absence with the leave of the Board; or

(*c*) has knowingly contravened the provisions of section 32; or

(*d*) being a legal practitioner, acts or appears on behalf of any other person against the Board in any legal proceeding or against the Government in any such proceeding relating to any matter in which the Board is or has been concerned or acts or appears on behalf of any person in any criminal proceeding instituted by or on behalf of the Board against such person; or

(*e*) has himself done or aided or abetted encroachments and illegal constructions on defence land in contravention of the provisions of this Act and the rules and bye-laws made thereunder.

(*2*) The Central Government may remove from a Board any member who, in the opinion of the Central Government, has so abused in any manner his position as a member of the Board as to render his continuance as a member detrimental to the public interests.

(*3*) The General Officer Commanding-in-Chief, the Command may, on receipt of a report from the Officer Commanding the station remove from a Board any military officer nominated as a member of the Board who is, in the opinion of the Officer Commanding the station, unable to discharge his duties as a member of the Board and has failed to resign his office.

(*4*) No member shall be removed from a Board under sub-section (*1*) or sub-section (*2*) of this section unless he has been given a reasonable opportunity of showing cause against his removal.

Consequences of removal.

35. (*1*) A member removed under clause (*b*) of sub-section (*1*) or under sub-section (*3*) of section 34 shall, if otherwise qualified, be eligible for re-election or re-nomination.

(*2*) A member removed under clause (*c*) or clause (*d*) of sub-section (*1*) of section 34 shall not be eligible for re-election or nomination for the period during which, but for such removal, he would have continued in office.

(*3*) A member removed under sub-section (*2*) of section 34 shall not be eligible for re-election or nomination until the expiry of three years from the date of his removal.

Member of the Board to be deemed a public servant.

36. Every member of the Board shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code and clause (*c*) of section 2 of the Prevention of Corruption Act, 1988. 45 of 1860. 49 of 1988.

Employees

Disqualification of person as an employee of Board.

37. (*1*) No person who has directly or indirectly by himself or his partner any share or interest in a contract with, by or on behalf of a Board, or in any employment under, by or on behalf of a Board, otherwise than as an employee of the Board, shall become or remain an employee of such Board.

(*2*) An employee of a Board who knowingly acquires or continues to have directly or indirectly by himself or his partner any share or interest in a contract with, by or on behalf of the Board or, in any employment under, by or on behalf of, the Board, otherwise than as an employee of the Board, shall be deemed to have committed an offence under section 168 of the Indian Penal Code.

45 of 1860.

(*3*) Nothing in this section shall apply to any share or interest in any contract with, by or on behalf of, or employment under, by or on behalf of a Board if the same is a share in a company contracting with, or employed by, or on behalf of, the Board or is a share or interest acquired or retained with the permission of the General Officer Commanding-in-Chief, the Command in any lease or sale to, or purchase by the Board of land or building or in any agreement for the same.

(*4*) Every person applying for employment as an employee of a Board shall, if he is related by blood or marriage to any member of the Board or to any person not being a lower grade employee, in receipt of remuneration from the Board, notify the fact and the nature of such relationship to the appointing authority before the appointment is made, and if he has failed to do so, his appointment shall be invalid but without prejudice to the validity of anything previously done by him.

Cantonment employee to be deemed a public servant.

38. Every officer or employee, permanent or temporary of a Board shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code and clause (*c*) of section 2 of the Prevention of Corruption Act, 1988.

45 of 1860.
49 of 1988.

Procedure

Meetings.

39. (*1*) Every Board shall meet at least once in a month to transact its business on such day as may be fixed by the President and in his absence by the Vice-President, and its notice shall be given in such manner as may be provided in the regulations made by the Board under this Chapter.

(*2*) The President may, whenever he thinks fit, and shall, upon a requisition in writing by not less than one-fourth of the members of the Board, convene a special meeting.

(*3*) Any meeting may be adjourned until the next or any subsequent day, and an adjourned meeting may be further adjourned in like manner but not more than twice except in case of a public emergency.

Business to be transacted.

40. Subject to any regulation made by the Board under this Chapter, any business may be transacted at any meeting:

Provided that no business relating to the imposition, abolition or modification of any tax shall be transacted at a meeting unless notice of the same and of the date fixed therefor has been sent to each member not less than seven days before that date.

Quorum.

41. (*1*) The quorum necessary for the transaction of business at a meeting of the Board shall be one-half of the number of members of the Board holding the office:

Provided that if the number of members of the Board holding office at a particular time is an odd number, the quorum shall be one-half of the number obtained by adding one to the number of such members.

(*2*) If a quorum is not present, the President or in his absence, the Vice-President or in the absence of both, the Member-Secretary shall adjourn the meeting and the business which would have been brought before the original meeting if there had been a quorum present thereat shall be brought before, and may be transacted at, an adjourned meeting, whether there is a quorum present or not.

Presiding Officer.

42. In the absence of—

(*a*) both the President and the Vice-President from any meeting of a Board in which there is more than one elected member,

(*b*) the President from a meeting of a Board constituted under sub-section (*6*) of section 12 or sub-section (*2*) of section 13,

the members present shall elect one from among their own members to preside.

Minutes.

43. (*1*) The minutes of the proceedings of each meeting shall be recorded in a book and shall be signed by the person presiding over the meeting and the Chief Executive Officer, before the close of the meeting and shall, at such times and in such place as may be fixed by the Board, be open to inspection free of charge by any inhabitant of the cantonment and its authenticated copies may be made available to him on request, at a nominal cost to be decided by the Board.

(*2*) Copies of the minutes shall, as soon as possible after each meeting, be forwarded for information to every Member of the Board, the General Officer Commanding-in-Chief, the Command, the District Magistrate and the Defence Estate Officer and in cantonments where Navy or Air Force stations are located copies of the minutes shall be forwarded for information to the Command Headquarters of the Navy or, as the case may be, the Air Force.

Meetings to be public.

44. Every meeting of a Board shall be open to the public unless in any case the person presiding over the meeting, for reasons to be recorded in the minutes, otherwise directs.

Method of deciding questions.

45. (*1*) All questions coming before a meeting shall be decided by the majority of the votes of the members present and voting.

(*2*) In the case of an equality of votes, the person presiding over the meeting, shall have a second or casting vote.

(*3*) The dissent of any member from any decision of the Board shall, if the member so requests, be entered in the minutes, together with a short statement of the ground for such dissent.

Civil area.

46. (*1*) The Central Government may, by notification in Official Gazette, declare the civil area, in a cantonment, which is inhabited largely by civil population to be the civil area for the purposes of this Act.

(*2*) The Central Government may in consultation with the Board undertake, as and when required and shall undertake after every census, a review of the boundaries of the civil area in each cantonment.

Committees for civil areas.

47. (*1*) Every Board constituted under section 12 in a cantonment shall appoint a committee consisting of the elected members of the Board, the Health Officer and the Executive Engineer for the administration of the civil area in the cantonment as notified under section 46 of this Act and may delegate its powers and duties to such committee in the manner provided in clause (*e*) of sub-section (*1*) of section 48.

(*2*) The Vice-President of the Board shall be the Chairman of the committee appointed under sub-section (*1*).

(*3*) The powers, duties and functions of the Board under sub-section (*1*) of section 137, section 143, section 147, section 149 and section 262 shall be exercised or discharged in respect of a civil area by the civil area committee:

Provided that if the Health Officer dissents from any decision arrived at by the committee under sub-section (*1*) of section 137, section 143, section 147 and section 149 on health grounds, the matter may be referred to the Board by the President for decision.

48. (*1*) A Board may make regulations consistent with this Act and with the rules made thereunder to provide for all or any of the following matters, namely:— Power to make regulations.

(*a*) the time and place of its meetings;

(*b*) the manner in which notice of the meeting shall be given;

(*c*) the conduct of proceedings at meetings and the adjournments of meetings;

(*d*) the custody of the common seal of the Board and the purposes for which it shall be used; and

(*e*) the appointment of committees for any purpose and the determination of all matters relating to the constitution and procedure of such committees, and the delegation to such committees, subject to any conditions which the Board thinks fit to impose, of any of the powers or duties of the Board under this Act other than a power to make regulations or bye-laws.

(*2*) No regulation made under clause (*e*) of sub-section (*1*) shall take effect until it has been approved by the Central Government.

(*3*) No regulation made under this section shall take effect until it has been published in such manner as the Central Government may direct.

49. (*1*) A Board may— Joint action with other local authority.

(*a*) join with any other local authority—

(*i*) in appointing a joint committee for any purpose in which they are jointly interested and in appointing a chairman of such committee;

(*ii*) in delegation to such committee power to frame terms binding on the Board and such other local authority as to the construction and future maintenance of any joint work or to exercise any power which might be exercised by the Board or by such other local authority; and

(*iii*) in making regulations for regulating the proceedings of any such committee relating to the purposes for which it has been appointed; or

(*b*) with the previous sanction of the General Officer Commanding-in-Chief, the Command, and the State Government concerned, enter into an agreement with any other local authority regarding the levy of any tax or toll whereby the said tax or toll respectively leviable by the Board and by such other local authority may be levied together instead of separately within the limits of the area hereafter in this section referred to as the aggregate area subject to the control of the Board and such other local authority.

(*2*) If any difference of opinion arises between any Board and other local authority acting together under this section, the decision thereon of the Central Government or of an officer appointed by the Central Government in this behalf shall be final.

(*3*) When any agreement such as is referred to in clause (*b*) of sub-section (*1*) has been entered into, then—

(*a*) where the agreement relates to octroi or terminal tax or toll, the party to the agreement (the Board, or as the case may be, such other local authority) which is specified in this behalf in the agreement,—

(*i*) shall have the same powers to establish octroi limits and octroi stations and places for the collection of octroi, terminal tax and toll within the aggregate area as it has within the area ordinarily subject to its control;

(*ii*) shall have the same powers of collecting such octroi, terminal tax or toll in the aggregate area and the provisions of any enactment in

force relating to the levy of such octroi, terminal tax or toll by it shall apply in the same manner as if the aggregate area were comprised within the area ordinarily subject to its control;

(*b*) the total of the collection of such octroi, tax or toll made in the aggregate area and the costs thereby incurred shall be divided between the cantonment fund and the fund subject to the control of such other local authority, in such proportion, as may have been determined by the agreement.

Report on administration.

50. (*1*) Every Board shall, as soon as may be after the close of the financial year and not later than the date fixed in this behalf by the Central Government, submit to the Central Government through the General Officer Commanding-in-Chief, the Command, a report on the administration of the cantonment during the preceding financial year, in such form and containing such details as the Central Government may direct.

(*2*) The comments, if any, of the General Officer Commanding-in-Chief, the Command, on such report shall be communicated by him to the Board which shall be allowed a reasonable time to furnish a reply thereto, and the comments together with the reply, if any, shall be forwarded to the Central Government along with the report.

Control

Power of Central Government to require production of documents.

51. The Central Government or such officer or authority as may be authorised by the Central Government in this behalf may at any time require a Board—

(*a*) to produce any record, correspondence, plan or other document in its possession or under its control;

(*b*) to furnish any return, plan, estimate, statement, account or statistics relating to its proceedings, duties or works;

(*c*) to furnish or obtain and furnish any report.

Inspection.

52. The Central Government or the General Officer Commanding-in-Chief, the Command or the Director General or the Principal Director, may depute any person in the service of the Government to inspect or examine any department of the office of, or any service or work undertaken by, or thing belonging to, a Board, and to report thereon, and the Board and its officers and employees shall be bound to afford the person so deputed access at all reasonable times to the premises and property of the Board and to all records, accounts and other documents the inspection of which he may consider necessary to enable him to discharge his duties.

Power to call for documents.

53. The General Officer Commanding-in-Chief, the Command or the Principal Director, may, by order in writing,—

(*a*) call for any book or document in the possession or under the control of the Board;

(*b*) require the Board to furnish such statements, accounts, reports and copies of documents relating to its proceedings, duties or works as he thinks fit.

Power to require execution of work, etc.

54. If, on receipt of any information or report obtained under section 51 or section 52 or section 53, the Central Government or the General Officer Commanding-in-Chief, the Command or the Director General or the Principal Director is of opinion—

(*a*) that any duty imposed on a Board by or under this Act has not been performed or has been performed in an imperfect, inefficient or unsuitable manner; or

(*b*) that adequate financial provision has not been made for the performance of any such duty,

it or he may direct the Board, within such period as it or he thinks fit, to make arrangements to its or his satisfaction for the proper performance of the duty, or as the case may be, to make financial provision to its or his satisfaction for the performance of the duty:

Provided that unless in the opinion of the Central Government or the General Officer Commanding-in-Chief, the Command or the Director General or the Principal Director, as the case may be, the immediate execution of such order is necessary, it or he shall, before making any direction under this section, give the Board an opportunity of showing cause why such direction should not be made.

Power to provide for enforcement of direction under section 54.

55. If, within the period fixed by a direction made under section 54, any action the taking of which has been directed under that section has not been duly taken, the Central Government or the General Officer Commanding-in-Chief, the Command or the Director General, or the Principal Director, as the case may be, may make arrangements for the taking of such action, and may direct that all expenses connected therewith shall be defrayed out of the cantonment fund.

Power to override decision of Board.

56. (*1*) If the President dissents from any decision of the Board which he considers prejudicial to the health, welfare, discipline or security of the Forces in the cantonment, he may, for reasons to be recorded in the minutes, by order in writing, direct the suspension of action thereon for any period not exceeding one month and, if he does so, shall forthwith refer the matter to the General Officer Commanding-in-Chief, the Command.

(*2*) If the District Magistrate considers any decision of a Board to be prejudicial to the public health, safety or convenience, he may, after giving notice in writing of his intention to the Board, refer the matter to the Central Government, and pending the disposal of the reference to the Central Government no action shall be taken on the decision.

(*3*) If any Magistrate who is a member of a Board, being present at a meeting, dissents from any decision which he considers prejudicial to the public health, safety or convenience, he may, for reasons to be recorded in the minutes and after giving notice in writing of his intention to the President, report the matter to the District Magistrate; and the President shall, on receipt of such notice, direct the suspension of action on the decision for a period sufficient to allow of a communication being made to the District Magistrate and of his taking proceedings as provided in sub-section (*2*).

(*4*) If the Chief Executive Officer considers any decision of the Board taken at a meeting, to be in contravention of the provisions of this Act, rules, regulations or bye-laws made thereunder and the general guidelines issued by the Central Government from time to time in this regard, he may, for reasons to be recorded in writing and after informing the President in this behalf, forthwith refer the matter to the Principal Director who shall if considered appropriate direct the suspension of action on the said decision for a period not exceeding one month.

(*5*) The Principal Director shall, for reasons to be recorded in writing on the reference made under sub-section (*4*), refer the matter to the General Officer Commanding-in-Chief, the Command along with recommendation on whether or not the said decision of the Board should be revoked and inform the matter to Director General Defence Estates.

Power of Central Government to review.

57. The Central Government may, at any time, review any decision or order of the Board or the General Officer Commanding-in-Chief, the Command, and pass such orders thereon as it may deem fit:

Provided that where it is proposed to modify a decision or order of the Board reasonable opportunity shall be given to the Board to show cause why the decision or order in question should not be modified.

Power of General Officer Commanding-in-Chief, the Command, on reference under section 56 or otherwise.

58. (*1*) The General Officer Commanding-in-Chief, the Command, may at any time—

(*a*) direct that any matter or any specific proposal other than one which has been referred to the Central Government under sub-section (*2*) of section 56 be considered or reconsidered by the Board; or

(*b*) direct the suspension, for such period as may be stated in the order, of action on any decision of a Board, other than a decision which has been referred to him under sub-section (*1*) of section 56, and thereafter cancel the suspension or after giving the Board a reasonable opportunity of showing cause why such direction should not be made, direct that the decision shall not be carried into effect or that it shall be carried into effect with such modifications as he may specify.

(*2*) When any decision of a Board has been referred to him under sub-sections (*1*) and (*4*) of section 56, the General Officer Commanding-in-Chief, the Command, may, by order in writing,—

(*a*) cancel the order given by the President directing the suspension of action; or

(*b*) extend the duration of the order for such period as he thinks fit; or

(*c*) after giving the Board a reasonable opportunity of showing cause why such direction should not be made, direct that the decision shall not be carried into effect or that it shall be carried into effect by the Board with such modifications as he may specify.

Power of Central Government on a reference made under section 56.

59. (*1*) When any decision of a Board has been referred to the Central Government under sub-section (*2*) of section 56, the Central Government may, after consulting the General Officer Commanding-in-Chief, the Command, by order in writing,—

(*a*) direct that no action be taken on the decision; or

(*b*) direct that the decision be carried into effect either without modification or with such modifications as it may specify.

Supersession of Board.

60. (*1*) If, in the opinion of the Central Government, any Board is not competent to perform or persistently makes default in the performance of the duties imposed on it by or under this Act or otherwise by law, or exceeds or abuses its powers, the Central Government may by an order published, together with the statement of the reasons therefor, in the Official Gazette, declare the Board to be incompetent or in default or to have exceeded or abused its powers, as the case may be, and supersede it for such period as may be specified in the order:

Provided that no Board shall be superseded unless a reasonable opportunity has been given to it to show cause against the supersession.

(*2*) When a Board is superseded by an order under sub-section (*1*)—

(*a*) all members of the Board shall, on such date as may be specified in the order, vacate their offices as such members but without prejudice to their eligibility for election or nomination under clause (*c*);

(*b*) during the supersession of the Board, all powers and duties conferred and imposed upon the Board by or under this Act shall be exercised and performed by the Officer Commanding the station, or by such officer as may be authorised by the Central Government, subject to such reservation if any, as the Central Government may prescribe in this behalf; and

(*c*) before the expiry of the period of supersession elections shall be held and nominations made for the purpose of reconstituting the Board.

Validity of proceedings

Validity of proceedings, etc.

61. (*1*) No act or proceeding of a Board or of any committee of a Board shall be invalid by reason only of the existence of a vacancy in the Board or committee.

(*2*) No disqualification or defect in the election, nomination or appointment of a person acting as the President or a member of a Board or of any such committee shall vitiate any act or proceeding of the Board or committee if the majority of the persons present at the time of the act being done or the proceeding being taken were duly qualified members thereof.

(*3*) Any document or minutes which purport to be the record of the proceedings of a Board or any committee of a Board shall, if made and signed substantially in the manner prescribed for the making and signing of the record of such proceedings, be presumed to be a correct record of the proceedings of a duly convened meeting, held by a duly constituted Board or committee, as the case may be, whereof all the members were duly qualified.

CHAPTER IV

DUTIES AND DISCRETIONARY FUNCTIONS OF BOARDS

62. It shall be the duty of every Board, so far as the funds at its disposal permit, to make reasonable provision within the cantonment for— Duties of Board.

(*i*) lighting streets and other public places;

(*ii*) watering streets and other public places;

(*iii*) cleansing streets, public places and drains, abating nuisances and removing noxious vegetation;

(*iv*) regulating offensive, dangerous or obnoxious trades, callings and practices;

(*v*) removing, on the ground of public safety, health or convenience, undesirable obstructions and projections in streets and other public places;

(*vi*) securing or removing dangerous buildings and places;

(*vii*) acquiring, maintaining, changing and regulating places for the disposal of the dead;

(*viii*) constructing, altering and maintaining streets, culverts, bridges, causeways, markets, slaughter-houses, latrines, privies, urinals, drains, drainage works and sewerage works and regulating their use;

(*ix*) planting and maintaining trees on roadsides and other public places;

(*x*) providing or arranging for a sufficient supply of potable water, where such supply does not exist, guarding from pollution water used for human consumption, and preventing polluted water from being so used;

(*xi*) registering births and deaths;

(*xii*) preventing and checking spread of dangerous diseases; establishing and maintaining a system of public vaccination and inoculation for the said objective;

(*xiii*) establishing and maintaining or supporting public hospitals, maternity and child welfare centres and dispensaries, and providing public medical relief;

(*xiv*) establishing and maintaining or assisting primary schools;

(*xv*) rendering assistance in extinguishing fires, and protecting light and property when fire occurs;

(*xvi*) maintaining and developing the value of property vested in, or entrusted to, the management of the Board;

(*xvii*) establishing and maintaining civil defence services;

(*xviii*) preparing and implementing town planning schemes;

(*xix*) preparing and implementing plans for economic development and social justice;

(*xx*) naming and numbering of streets and premises;

(*xxi*) according or refusing permission to erect or re-erect building;

(*xxii*) organising, promoting or supporting cultural and sports activities;

(*xxiii*) celebrating Independence Day and Republic Day and incurring expenditure thereon;

(*xxiv*) fulfilling any other obligation imposed upon it by or under this Act or any other law for the time being in force.

Power to manage property.

63. A Board may, subject to any conditions imposed by the Central Government, manage any property entrusted to its management by the Central Government on such terms as to the sharing of rents and profits accruing from such property as may be determined by rule made under section 346.

Discretionary functions of Board.

64. (*1*) A Board may, within the cantonment, make provision for—

(*i*) laying out in areas, whether previously built upon or not, new streets, and acquiring land for that purpose and for the construction of buildings, and compounds of buildings, to abut on such streets;

(*ii*) constructing, establishing or maintaining public parks, gardens, offices, dairies, bathing or washing places, drinking fountains, tanks, wells and other works of public utility;

(*iii*) reclaiming unhealthy localities;

(*iv*) furthering educational objects by measures other than the establishment and maintenance of primary schools;

(*v*) setting up or supporting higher schools, colleges and vocational, professional and special education;

(*vi*) constructing, and maintaining works and structures, including rainwater harvesting, for providing supply of water for public and private purposes;

(*vii*) constituting, maintaining and managing supply and distribution of electricity, including by exploiting non-conventional energy sources, to public and private premises;

(*viii*) taking a census and granting rewards for information which may tend to secure the correct registration of vital statistics;

(*ix*) making a survey;

(*x*) giving relief on the occurrence of local epidemics, floods, famines or other natural calamities by the establishment or maintenance of relief work or otherwise;

(*xi*) securing or assisting to secure suitable places for the carrying on of any offensive dangerous or obnoxious trade, calling or occupation;

(*xii*) establishing and maintaining a farm or other place for the disposal of sewage;

(*xiii*) constructing, subsidising or guaranteeing tramways or other means of locomotion, and electric lighting or electric power work;

(*xiv*) establishing and maintaining cattle pounds;

(*xv*) arranging for civic reception with prior approval of the Officer Commanding the Station;

(*xvi*) providing housing accommodation for any class of inhabitants;

(*xvii*) conservation and maintenance of ancient and historical monuments, archaeological sites and remains or place of public importance in the cantonment;

(*xviii*) developing land resources under the management of the Board;

(*xix*) preparing and implementing group housing schemes;

(*xx*) establishing and undertaking remunerative projects;

(*xxi*) developing small-scale and cottage industries;

(*xxii*) developing expertise in different areas of urban governance and local self-government to and able to provide consultancy to other Municipal and Development Authorities;

(*xxiii*) adopting any measure, other than a measure specified in section 62 or in the foregoing provisions of this section likely to promote the safety, health or convenience of the inhabitants of the cantonment;

(*xxiv*) establishing and maintaining or supporting libraries, museums, art galleries, botanical or zoological collections;

(*xxv*) establishing and maintaining or supporting stadia, gymnasia, akharas and places for sports and games;

(*xxvi*) establishing theatres and cinemas;

(*xxvii*) organising and managing fairs and exhibitions;

(*xxviii*) constructing and maintaining:—

(*a*) rest-houses;

(*b*) poor-houses;

(*c*) infirmaries;

(*d*) children's home;

(*e*) houses for deaf and dumb and for disabled and handicapped children;

(*f*) shelters for destitute and disabled persons;

(*g*) asylums for persons of unsound mind;

(*h*) old age homes;

(*i*) working women's hostels;

(*xxix*) establishing and managing chemical or bacteriological laboratories for the examination or analysis of water, food and drugs for the detection of diseases or research connected with the public health or medical relief;

(*xxx*) providing relief to destitute and disabled persons;

(*xxxi*) establishing and maintaining veterinary hospitals;

(*xxxii*) constructing and maintaining warehouses and godowns;

(*xxxiii*) constructing and managing garages, sheds and stands for vehicles and cattle sheds;

(*xxxiv*) constructing and managing community halls and convention halls;

(*xxxv*) holding seminars, workshops, public debates, and similar activities particularly on issues and rules and regulations of civic importance.

Explanation.—For the purposes of clause (*xvii*)—

(*a*) "conservation" means the supervision, management and maintenance of a place to retain its historical, architectural, aesthetic or cultural significance or of environment and includes the protection, improvement, preservation, restoration, reconstruction and adoption or a combination of more than one of these activities, and the use of such place in a way that ensures the social as well as economic benefits;

(*b*) "ancient and historical monuments, archaeological sites and remains or place of public importance" include buildings, artefacts, structures, areas, or precincts of historical or aesthetical or educational or scientific or cultural or environmental significance, and those natural features of environmental signifcance or scenic beauty, as may be declared by the Board.

(2) A Board may, either within or outside the cantonment, make provision for the doing of anything on which expenditure is declared by the Central Government, or by the Board with the sanction of the Central Government, to be an appropriate charge on the cantonment fund or the cantonment development fund.

Power of expenditure of educational, health and other purposes outside the cantonment.

65. (1) A Board may make provision subject to availability of funds for—

(i) educational objects in a cantonment;

(ii) the objectives of public health and medical care;

(iii) works relating to water-supply, drainage and lighting;

(iv) the preservation, improvement and upgradation of environment,

outside the cantonment, if it is satisfied that the interests of the residents of the cantonment will be served thereby.

CHAPTER V

TAXES AND FEES

Imposition of taxation

General power of taxation.

66. (1) The Board shall, with the previous sanction of the Central Government, impose the following taxes for the purposes of this Act :—

(a) property tax; and

(b) tax on trades, professions callings and employments.

(2) In addition to the taxes specified in sub-section (1) the Board may, for the purposes of this Act, impose any tax which under any enactment for the time being in force may be imposed in any municipality in the State in which the cantonment is situated:

Provided that the Board shall revise every five years, the rates of taxes imposed under sub-sections (1) and (2):

Provided further that the Board shall not abolish any tax imposed under this section or vary it to the Board's financial disadvantage without the prior sanction of the Central Government and the tax mentioned in sub-section (2) shall not exceed the ceiling prescribed in this behalf by clause (2) of article 276 of the Constitution.

(3) The taxes specified in sub-sections (1) and (2) shall be imposed, assessed and collected in accordance with the provisions of this Act, rules and the bye-laws made thereunder.

(4) Any tax imposed under this section shall take effect from the date of its notification in the Official Gazette or where any later date is specified in this behalf in the notification, from such later date.

Charging of fees.

67. The Board shall, for the purposes of this Act, charge the following fees, namely:—

(a) licence fee on vehicles and animals;

(b) licence fee on advertisements other than advertisements in newspapers;

(c) fee relating to maintenance of property records;

(d) processing fee on buildings payable along with application for sanction of the building plan;

(e) licence fee on entry of vehicles;

(f) betterment fee on the increase in land value caused by the execution of any development work; and

(g) such other fee which the Board may by regulation specify:

Provided that the fee charged under clause (g) of this section shall not be less than the cost incurred by the Board for or in connection with the specific service to which the fee relates.

68. Save as otherwise provided in this Act, the property tax shall be levied on lands and buildings in the cantonment and shall consist of not less than ten and not more than thirty per cent of the annual rateable value of lands and buildings: Norms of property tax.

Provided that the Board may, when fixing the rate at which the property tax shall be levied during any year, determine that the rate leviable in respect of lands and buildings or portions of lands and buildings in which any particular class of trade or business is carried on shall be higher than the rate determined in respect of other lands and buildings or portions of other lands and buildings by an amount not exceeding one half of the rate so fixed:

Provided further that the tax may be levied on graduated scale, if the Board so determines.

Explanation.—Where any portion of a land or building is liable to a higher rate of the tax such portion shall be deemed to be a separate property for the purpose of municipal taxation alone.

69. When a resolution has been passed by the Board proposing to impose a tax under section 66, the Board shall in the manner prescribed in section 319 publish a notice specifying— Framing of preliminary proposals.

(*a*) the tax which it is proposed to impose;

(*b*) the persons or classes of persons to be made liable and the description of the property or other taxable thing or circumstance in respect of which they are to be made liable; and

(*c*) the rate at which the tax is to be levied.

70. (*1*) Any inhabitant of the cantonment may, within thirty days from the publication of the notice under section 69, submit to the Board an objection in writing to all or any of the proposals contained therein and the Board shall take such objection into consideration and pass orders thereon by special resolution. Objections and disposal thereof.

(*2*) Unless the Board decides to abandon its proposals contained in the notice published under section 69, it shall submit to the Central Government through the General Officer Commanding-in-Chief, the Command, all such proposals along with the objections, if any, received in connection therewith together with its opinion thereon and any modifications proposed in accordance with such opinion and the notice published under the said section.

71. The Central Government may authorise the Board to impose the tax either in the original form or, if any objection has been submitted, in that form or any such modified form as it thinks fit. Imposition of tax.

72. (*1*) Where the Central Government is of opinion that for securing adequate financial provision for the efficient discharge of the duties and functions of a Board it is necessary so to do, it may issue directions to the Board requiring it to impose within the cantonment area any tax which it is empowered under this Act to impose and which is not already imposed within the said area or to enhance any existing tax in such a manner or to such an extent as the Central Government considers fit and the Board shall, in accordance with the direction, forthwith impose or enhance such tax in accordance with the provisions of this Chapter: Power of Central Government to issue directions to the Board.

Provided that—

(*a*) no such directions shall be issued without giving the Board and the inhabitants of the cantonment area, an opportunity of showing cause why such directions should not be issued;

(*b*) the Central Government shall take into consideration any objection which the Board or any inhabitant of the cantonment area may make against the imposition or enhancement of such tax;

(*c*) it shall not be lawful for the Board to modify or abolish such tax when imposed or enhanced without the sanction of the Central Government.

(*2*) The Central Government may, at any time, cancel or modify any direction issued by it under sub-section (*1*) with effect from such date as may be specified in the direction and on and from the date so specified the imposition or enhancement of such tax, shall cease or be modified accordingly.

Definition of "annual rateable value".

73. For the purposes of this Chapter, "annual rateable value" means—

(*a*) in the case of hotels, colleges, schools, hospitals, factories and any other buildings which the Chief Executive Officer decides to assess under this clause, one-twentieth of the sum obtained by adding the estimated present cost of erecting the building to the estimated value of the land appertaining thereto; and

(*b*) in the case of building or land not assessed under clause (*a*), the gross annual rent for which such building exclusive of furniture or machinery therein or such land is actually let or, where the building or land is not let or in the opinion of the Chief Executive Officer is let for a sum less than its fair letting value, might reasonably be expected to let from year to year :

Provided that, where the annual rateable value of any building is, by reason of exceptional circumstances, in the opinion of the President Cantonment Board, excessive if calculated in the aforesaid manner, the President Cantonment Board may fix the annual rateable value at any less amount which appears to him to be just.

Incidence of taxation.

74. (*1*) Save as otherwise expressly provided in the notification imposing the tax, every tax assessed on the annual rateable value of buildings or lands or of both shall be leviable primarily upon the actual occupier of the property upon which the said tax is assessed, if he is the owner of the buildings or land or holds them on a building or other lease granted by or on behalf of the Government or the Board or on a building lease from any person.

(*2*) In any other case, the tax shall be primarily leviable as follows, namely :—

(*a*) if the property is let, upon the lessor;

(*b*) if the property is sub-let, upon the superior lessor;

(*c*) if the property is unlet, upon the person in whom the right to let the same vests.

(*3*) The liability of the several owners of any building which is, or purports to be, severally owned in parts or flats or rooms or separate tenements for the payment of such tax or any instalment thereof payable during the period of such ownership shall be joint and several.

(*4*) On failure to recover any sum due on account of such tax from the person primarily liable, these may be recovered from the occupier of any part of the buildings or lands in respect of which the tax is due such portion of the sum due as bears to the whole amount due the same ratio which the rent annually payable by such occupier bears to the aggregate amount of rent so payable in respect of the whole of the said buildings or lands, or to the aggregate amount of the letting value thereof, if any, stated in the authenticated assessment list.

(*5*) An occupier who makes any payment for which he is not primarily liable under this section shall, in the absence of any contract to the contrary, be entitled to be reimbursed by the person primarily liable for the payment, and, if so entitled, may deduct the amount so paid from the amount of any rent from time to time becoming due from him to such person.

Assessment list

Assessment list.

75. When a tax assessed on the annual rateable value of buildings or lands or both is imposed, the Chief Executive Officer shall cause an assessment list of all buildings or lands in the cantonment, or of both, as the case may be, to be prepared in such form and in such manner as the Central Government may by rule prescribe.

Revision of assessment list.

76. (*1*) The Chief Executive Officer shall, at the same time, give public notice of a date, not less than one month thereafter, when he shall proceed to consider the valuation and assessments entered in the assessment list, and, in all cases in which any property is for the first time assessed or the assessment is increased shall also give written notice thereof to the owner and to any lessee or occupier of the property.

(*2*) Any objection to a valuation or assessment shall be made in writing to the Chief Executive Officer before the date fixed in the notice, and shall state in what respect the valuation or assessment is disputed, and all objections so made shall be recorded in a register to be kept for the purpose by the Chief Executive Officer.

(*3*) The objections shall be inquired into and investigated, and the persons making them shall be allowed an opportunity of being heard either in person or by authorised agent by the Chief Executive Officer.

Authentication of assessment list.

77. (*1*) When all objections made under section 76 have been disposed of, and the revision of the valuation and assessment has been completed, the assessment list shall be authenticated by the signatures of the Chief Executive Officer and the President Cantonment Board, who shall, certify that except in the cases if any, in which amendments have been made as shown therein no valid objection has been made to the annual rateable value or any other matters entered in the said list:

Provided that whenever the General Officer Commanding-in-Chief the Command or the Principal Director comes to the conclusion that the assessment lists or any entries therein have not been correctly prepared and are prejudicial to the interests of the Board or of the Central Government, they may *suo moto* re-open the said assessment and issue such directions as deemed fit.

(*2*) The assessment list so authenticated shall be deposited in the office of the Board, and shall there be open, free of charge, during office hours to all owners lessees and occupiers of property comprised therein or the authorised agents of such persons, and a public notice that it is so open shall forthwith be published.

Evidential value of assessment list.

78. Subject to such alterations as may thereafter be made in the assessment list under the provisions of this Chapter and to the result of any appeal made thereunder, the entries in the assessment list authenticated and deposited as provided in section 77 shall be accepted as conclusive evidence—

(*a*) for the purposes of assessing any tax imposed under this Act, of the annual rateable value or other valuation of all buildings and lands to which such entries respectively refer; and

(*b*) for the purposes of any tax imposed on buildings or lands, of the amount of each such tax leviable thereon during the year to which such list relates.

Amendment of assessment list.

79. (*1*) The Chief Executive Officer may after obtaining the approval of President Cantonment Board amend the assessment list at any time—

(*a*) by inserting or omitting the name of any person whose name ought to have been or ought to be inserted or omitted; or

(*b*) by inserting or omitting any property which ought to have been or ought to be inserted or omitted; or

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(*c*) by altering the assessment on any property which has been erroneously valued or assessed through fraud, accident or mistake whether on the part of administration or assessees; or

(*d*) by revaluing or re-assessing any property the value of which has been increased; or

(*e*) in the case of a tax payable by an occupier, by changing the name of the occupier:

Provided that no person shall by reason of any such amendment become liable to pay any tax or increase of tax in respect of any period prior to the commencement of the year in which the assessment is made.

(*2*) Before making any amendment under sub-section (*1*) the Chief Executive Officer shall give to any person affected by the amendment, notice of not less than one month that he proposes to make the amendment.

(*3*) Any person interested in any such amendment may tender an objection to the Chief Executive Officer in writing before the time fixed in the notice, and shall be allowed an opportunity of being heard in support of the same in person or by authorised agent.

Preparation of new assessment list.

80. The Chief Executive Officer shall prepare a new assessment list at least once in every three years, and for this purpose the provisions of sections 75 to 79 shall apply in like manner as they apply for the purpose of the preparation of an assessment list for the first time.

Notice of transfers.

81. (*1*) Whenever the title of any person primarily liable for the payment of a tax on the annual rateable value of any building or land to or over such building or land is transferred, the person whose title is transferred and the person to whom the same is transferred shall, within three months after the execution of the instrument of transfer or after its registration, if it is registered, or after the transfer is effected, if no instrument is executed, give notice of such transfer to the Chief Executive Officer.

(*2*) In the event of the death of any person primarily liable as aforesaid, the person on whom the title of the deceased devolves shall give notice of such devolution to the Chief Executive Officer within six months from the death of the deceased.

(*3*) The notice to be given under this section shall be in such form as may be determined by rules made under section 346, and the transferee or other person on whom the title devolves shall, if so required, be bound to produce before the Chief Executive Officer any documents evidencing the transfer or devolution.

(*4*) Every person who makes a transfer as aforesaid without giving such notice to the Chief Executive Officer shall continue liable for the payment of all taxes assessed on the property transferred until he gives notice or until the transfer has been recorded in the registers of the Board, but nothing in this section shall be held to affect the liability of the transferee for the payment of the said tax.

(*5*) The Chief Executive Officer shall record every transfer or devolution of title notified to him under sub-section (*1*) or sub-section (*2*) in the assessment list and other tax registers of the Board.

(*6*) Any failure to comply with the provisions contained in sub-sections (*1*) to (*3*) shall be punishable with fine which may extend to ten thousand rupees.

Notice of erection of buildings.

82. (*1*) If any building is erected or re-erected within the meaning of section 235, the owner shall give notice thereof to the Chief Executive Officer within thirty days from the date of its completion or occupation, whichever is earlier.

(2) Any person failing to give the notice required by sub-section (1) shall be punishable with fine which may extend to five thousand or ten times the amount of the tax payable on the said building, as erected or re-erected, as the case may be, in respect of a period of three months, whichever is greater.

Remission and refund

83. If any building is wholly or partly demolished or destroyed or otherwise deprived of value, the Board may, on the application in writing of the owner or occupier, remit or refund such portion of any tax assessed on the annual rateable value thereof as it thinks fit but no remission or refund shall take effect in respect of any period commencing more than two months before the delivery of such application. Demolition, etc., of buildings.

84. In a cantonment when any building or land has remained vacant and unproductive of rent for sixty or more consecutive days the Chief Executive Officer shall remit or refund, as the case may be, one-half of such portion of any tax assessed on the annual rateable value thereof as may be proportionate to the number of days during which the said building or land has remained vacant and unproductive of rent: Remission of tax.

Provided that in any cantonment which the Central Government, by notification in the Official Gazette, has declared to be a hill cantonment and in respect of which the Central Government by the same or a like notification has declared a portion of the year to be the season for the cantonment—

(a) when any building or land is leased for occupation through the season only, but the rent charged is the full annual rent, no remission or refund shall be admissible under this section in respect of any time outside the season during which the building or land remains vacant;

(b) when such building or land has remained vacant and unproductive of rent, in respect of any time, not being less than sixty consecutive days during which within the season, the Chief Executive Officer shall remit or refund one-half of such portion of any tax assessed on the annual rateable value thereof as bears to the whole of the tax so assessed the same proportion as the number of days during which the building or land has remained vacant and unproductive of rent bears to the total length of the season.

85. (1) For the purpose of obtaining a partial remission or refund of tax, the owner of a building composed of separate tenements may request the Chief Executive Officer at the time of the assessment of the building, to enter in the assessment list, in addition to the annual rateable value of the whole building, a note recording in detail the annual rateable value of each separate tenement. Power to require entry in assessment list of details of buildings.

(2) When any tenement, the annual value of which has been thus separately recorded, has remained vacant and unproductive of rent for sixty or more consecutive days one-half of such portion of any tax assessed on the annual rateable value of the whole building shall be remitted or refunded as would have been remitted or refunded if the tenement had been separately assessed.

86. No remission or refund under section 84 or section 85 shall be made unless notice in writing of the fact that the building, land or tenement has become vacant and unproductive of rent, has been given to the Chief Executive Officer and no remission or refund shall take effect in respect of any period commencing more than fifteen days before the delivery of such notice. Notice to be given of the circumstances in which remission or refund is claimed.

87. (1) For the purposes of sections 84 and 85 no building, tenement or land shall be deemed vacant if maintained as a resort or town or country house or be deemed unproductive of rent if let to a tenant who has a continuing right of occupation thereof, whether he is in actual occupation or not. What buildings, etc., are to be deemed vacant.

(2) The burden of proving all facts entitling any person to claim relief under section 83 or section 84 or section 85 shall be upon him.

Notice to be given of every occupation of vacant building or house.

88. (1) The owner of any building, tenement or land in respect of which a remission or refund of tax has been given under section 84 or section 85 shall give notice of the re-occupation of such building, tenement or land within fifteen days of such re-occupation.

(2) Any owner failing to give the notice required by sub-section (1) shall be punishable with fine which shall not be less than twice the amount of the tax payable on such building, tenement or land in respect of the period during which it has been re-occupied and which may extend to two thousand five hundred rupees, or to ten times the amount of the said tax, whichever sum is greater.

Charge on immovable property

Tax on buildings and land to be a charge thereon.

89. A tax assessed on the annual rateable value of any building or land shall, subject to the prior payment of the land-revenue, if any, due to the Government thereon, be a first charge upon the building or land.

Octroi, terminal tax and toll

Inspection of imported goods, octroi, terminal tax and toll, etc.

90. Every person bringing or receiving any goods, vehicles or animals within the limits of any cantonment in which octroi or terminal tax or toll is leviable shall, when so required by an officer duly authorised by the Chief Executive Officer in this behalf, so far as may be necessary for ascertaining the amount of tax chargeable—

(a) permit that officer to inspect, examine or weigh such goods, vehicles or animals; and

(b) communicate to that officer any information, and exhibit to him any bill, invoice or document of a like nature, which such person may possess relating to such goods, vehicles or animals.

Power to seize, etc.

91. (1) Any person who takes or attempts to take past any octroi station or any other place appointed within a cantonment for the collection of octroi, terminal tax or toll any goods, vehicles or animals, on account of which octroi, terminal tax or toll is leviable and thereby evades, or attempts to evade, the payment of such octroi, terminal tax or toll and any person who abets any such evasion or attempt at evasion, shall be punishable with fine which may extend either to ten times the value of such octroi, terminal tax or toll, or to two thousand five hundred rupees, whichever is greater, and which shall not be less than twice the value of such octroi, terminal tax or toll, as the case may be.

(2) In case of non-payment of any octroi or terminal tax or toll on demand, the officer empowered to collect the same may seize any goods, vehicles or animals on which the octroi, terminal tax or toll is chargeable or any part or number thereof which is of sufficient value to satisfy the demand and shall give a receipt specifying the items seized.

(3) The Chief Executive Officer, or an officer of the Board authorised by him, after the lapse of five days from the seizure, and after the issue of a notice in writing to the person in whose possession the goods, vehicles or animals were at the time of seizure, fixing the time and place of sale, may cause the property so seized, or so much thereof as may be necessary, to be sold by auction to satisfy the demand and meet expenses occasioned by the seizure, custody and safe thereof, unless the demand and expenses are in the meantime paid:

Provided that the Chief Executive Officer may, in any case, order that any article of a perishable nature which cannot be kept for five days without serious risk of damage, or which cannot be kept safe at a cost which, together with the amount of octroi, terminal tax or toll, is likely to exceed its value, shall be sold after the lapse of such shorter times as he may, having regard to the nature of the article, think proper.

(*4*) If, at any time before the sale has begun, the person whose property has been seized tenders to the Chief Executive Officer the amount of all expenses incurred and of the octroi, terminal tax or toll, the Chief Executive Officer shall release the property seized.

(*5*) The surplus, if any, of the sale proceeds shall be credited to the cantonment fund, and shall, on application made to the Chief Executive Officer within six months after the sale, be paid to the person in whose possession the property was at the time of seizure, and, if no such application is made, shall become the property of the Board.

Lease of octroi, terminal tax or toll.

92. It shall be lawful for the Chief Executive Officer, with the previous sanction of the Board to lease the collection of any octroi, terminal tax or toll for any period not exceeding one year; and the lessee and all persons employed by him in the management and collection of the octroi, terminal tax or toll shall, in respect thereof,—

(*a*) be bound by any orders made by the Chief Executive Officer for their guidance;

(*b*) have such powers exercisable by officers or employees of the Board under this Act as the Board may confer upon them; and

(*c*) be entitled to the same remedies and be subject to the same responsibilities as if they were employed by the Board for the management and collection of the octroi, terminal tax or toll, as the case may be:

Provided that no article distrained may be sold except under the orders of the Chief Executive Officer.

Appeals

Appeals against assessment.

93. (*1*) An appeal against the assessment or levy of, or against the refusal to refund, any tax under this Act shall lie to the District Court.

(*2*) If the District Court, on the hearing of an appeal under this section, entertains reasonable doubt on any question as to the liability to, or the principle of assessment of, a tax, the Court may, either on its own motion or on the application of the appellant, draw up statement of the facts of the case and the point on which doubt is entertained, and refer the statement with its opinion on the point for the decision of the High Court.

(*3*) On a reference being made under sub-section (*2*), the subsequent proceedings in the case shall be, as nearly as may be, in conformity with the rules relating to references to the High Court contained in order XLVI of the First Schedule to the Code of Civil Procedure, 1908.

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Explanation.— For the purposes of this section and sections 94, 95, 96, 97 and 102, "District Court", in relation to a cantonment, means the Principal Civil Court of original jurisdiction having jurisdiction over the area in which that cantonment is situated, and includes such other Civil Court having jurisdiction over that area as the Central Government may, by notification in the Official Gazette, specify in this behalf, in consultation with the High Court having jurisdiction over that area.

Costs of appeal.

94. In every appeal the costs shall be in the discretion of the District Court hearing the appeal.

Recovery of costs from Board.

95. (*1*) If the Board fails to pay any cost awarded to an appellant within ten days after the date of the order for payment thereof, the District Court awarding the costs may order the person having the custody of the balance of the cantonment fund to pay the amount.

(*2*) Where the appellant fails to pay any costs awarded to the Board within ten days after the date of the order for payment thereof, the same shall be recoverable by the Board in the same manner as moneys recoverable by the Board under section 324.

Conditions of right to appeal.

96. No appeal shall be heard or determined under this Chapter unless—

(*a*) the appeal is, in the case of a tax assessed on the annual rateable value of buildings or lands or both, brought within thirty days next after the date of the authentication of the assessment list under section 77 (exclusive of the time required for obtaining a copy of the relevant entries therein), or, as the case may be, within thirty days of the date on which an amendment is finally made under section 79 and in the case of any other tax, within thirty days next after the date of the receipt of the notice of assessment or of alteration of assessment or, if no notice has been given, within thirty days next after the date of the presentation of the first bill in respect thereof:

Provided that an appeal may be admitted after the expiration of the period prescribed therefor by this section if the appellant satisfies the District Court before whom the appeal is preferred that he had sufficient cause for not preferring it within that period;

(*b*) the amount including the assessed tax or duty, if any, in dispute in the appeal shall be deposited by the appellant every year on or before the due date in the office of the Board till the appeal is decided by the District Court.

Finality of appellate orders.

97. The order of a District Court confirming, setting aside or modifying an order in respect of any valuation or assessment or liability to assessment or taxation shall be final:

Provided that it shall be lawful for the District Court, upon application or on its own motion, to review any order passed by it in appeal if application in this behalf is made within three months from the date of the original order.

Payment and recovery of taxes

Time and manner of payment of taxes.

98. Save as otherwise expressly provided under this Act, any tax imposed under the provisions of this Act shall be payable on such dates and in such manner, as the Chief Executive Officer may, by public notice, direct.

Public notice for taxes due.

99. (*1*) When any tax has become due the Chief Executive Officer shall cause a separate bill and public notice to be issued as well as published in a local newspaper specifying the tax and the period for which it is due for payment.

(*2*) The tax shall become due for payment from the date of issue of public notice under sub-section (*1*) above.

(*3*) Any non-receipt of a Bill by a person shall not be a cause for non-payment of the tax notified under sub-section (*1*).

Notice of demand.

100. (*1*) If the amount of tax for which public notice has been issued or a bill has been presented is not paid within thirty days from the issue of public notice or presentation of the bill, as the case may be, the Chief Executive Officer may cause to be served upon the person liable for the payment of the same a notice of demand in the form set forth in Schedule I.

(*2*) For every notice of demand which the Chief Executive Officer causes to be served on any person under this section, a fee of such amount, not exceeding two hundred rupees as shall in each case be fixed by the Chief Executive Officer, shall be payable by the said person and shall be included in the costs of recovery.

Recovery of tax.

101. (*1*) If the person liable for the payment of any tax does not, within thirty days from the service of the notice of demand, pay the amount due, or show sufficient cause for non-payment of the same to the satisfaction of the Chief Executive Officer, such sum, with all costs of recovery, may be recovered under a warrant, issued in the form set forth in Schedule II, by distress and sale of the movable property or attachment and sale of the immovable property of the defaulter:

Provided that the Chief Executive Officer shall not recover any sum the liability for which has been remitted on appeal under this Chapter:

Provided further that the sale of any immovable property attached under this sub-section shall not be made save under the orders of the Board.

(*2*) Every warrant issued under this section shall be signed by the Chief Executive Officer.

102. (*1*) If a person on whom a notice of demand has been served under section 100, does not, within thirty days from the service of such notice, pay the sum demanded in the notice, he shall be liable to pay by way of interest, in addition to the sum and other charges due one per cent., of the sum due for each complete month from the date of expiry of the period of thirty days as aforesaid. Interest payable on taxes due.

(*2*) The amount of interest shall be recoverable in the same manner as moneys recoverable by the Board under section 324.

Provided that—

(*a*) where no appeal has been preferred, the Chief Executive officer with the previous sanction of the Board; and

(*b*) in any other case, the District Court hearing the appeal under section 93,

may remit the whole or any part of the interest payable in respect of any period.

103. (*1*) It shall be lawful for any official of the Board to whom a warrant issued under section 101 is addressed to distrain, wherever it may be found in the cantonment, any movable property of or standing timber, growing crops or grass belonging to the person therein named as defaulter, subject to the following conditions, exceptions and exemption, namely:— Distress.

(*a*) the following property shall not be distrained—

(*i*) the necessary wearing apparel and bedding of the defaulter or of his wife or of his children;

(*ii*) tools of artisans;

(*iii*) books of account; or

(*iv*) when the defaulter is an agriculturist, his implements of husbandry, seed-grain, and such cattle as may be necessary to enable the defaulter to earn his livelihood;

(*b*) The distress shall not be excessive, that is to say, the property distrained shall be as nearly as possible equal in value to the amount recoverable under the warrant, and if any property has been distrained which, in the opinion of the Chief Executive Officer, should not have been distrained, it shall forthwith be returned.

(*2*) The person charged with the execution of a warrant of distress shall forthwith make an inventory of the property which he seizes under such warrant, and shall, at the same time, give a written notice in the form in Schedule III to the person in possession thereof at the time of seizure that the said property will be sold as therein mentioned.

104. (*1*) When the property seized is subject to speedy and natural decay, or when the expense of keeping it in custody is, when added to the amount to be recovered, likely to exceed its value, the Chief Executive Officer shall give notice to the person in whose possession the property was at the time of seizure that it will be sold at once, and shall sell it accordingly by public auction unless the amount mentioned in the warrant is forthwith paid. Disposal of distrained property.

(2) If the warrant is not in the meantime suspended by the Chief Executive Officer, or discharged, the property seized shall, after the expiry of the period named in the notice served under sub-section (2) of section 103, be sold by public auction by order of the Chief Executive Officer.

(3) For every distraint made under this Chapter a fee of such amount, not exceeding two hundred rupees, as shall in each case be fixed by the Chief Executive Officer shall be charged, and the said fee shall be included in the costs of recovery.

Attachment and sale of immovable property.

105. (1) When a warrant is issued for the attachment and sale of immovable property, the attachment shall be made by an order prohibiting the defaulter from transferring or charging the property in any way, and all persons from taking any benefit from such transfer or charge, and declaring that such property would be sold unless the amount of tax due with all costs of recovery is paid in the office of the Board within fifteen days from the date of attachment.

(2) An order under sub-section (1) shall be displayed at some place on or adjacent to such property by pasting the same conspicuously and by publishing the same in a newspaper having circulation in the area in which the property is situated or by any other means or mode as may be considered appropriate by the Chief Executive Officer.

(3) Any transfer of or charge on the property attached or any interest thereon made without the written permission of the Chief Executive Officer shall be void as against all claims of the Board enforceable under the attachment.

(4) Where the sum due to the Board with the cost incurred by the Board in the sale of the property, including publication of notice in newspaper and a sum equal to five per cent. of the purchase money for payment to the purchaser is paid by the defaulter, before the confirmation of the sale under sub-section (5), the attachment, if any, of the immovable property shall be deemed to have been removed.

(5) After the sale of the property by auction as aforesaid, it shall be confirmed in writing by the Chief Executive Officer who shall put the person declared to be the purchaser in possession of the same and shall grant him a certificate to the effect that he has purchased the property to which the certificate refers.

(6) The Central Government may make rules for—

(a) regulating the manner of execution of warrants for the attachment and sale of immovable property;

(b) charging of fees for the attachment and sale of immovable property, to be included in the cost of recovery of the tax due;

(c) summary determination of any claim made by any person other than the person liable for the payment of any tax, in respect of any property attached in execution of warrant under this section.

Recovery from a person about to leave cantonment and refund of surplus sale proceeds, if any.

106. (1) If the Chief Executive Officer has reason to believe that any person from whom any sum is due or is about to become due on account of any tax is about to move from the cantonment, he may direct the immediate payment by such person of the sum so due or about to become due, and cause a notice of demand for the same to be served on such person.

(2) If, on the service of such notice, such person does not forthwith pay the sum so due or about to become due, the amount shall be leviable by distress and sale of movable property or attachment and sale of immovable property in the manner hereinbefore provided in this Chapter, and the warrant of such distress and sale or attachment and sale may be issued and executed without any delay.

(3) The surplus of the sale proceeds arising out of section 104, section 105 and this section, if any, shall immediately after the sale of the property, be credited to the cantonment fund, and the notice of such credit shall immediately be given to the person whose property has been sold, or to his legal representative and, if such money is claimed, within a period of one year from the date of notice, a refund thereof shall be made to the said person or his representative.

(4) Any surplus of the sale proceeds not claimed within one year as aforesaid shall be the property of the Board.

Power to institute suit for recovery.

107. Instead of proceeding against a defaulter by distress and sale of movable property or attachment and sale of immovable property as hereinbefore provided in this Chapter, or after a defaulter has been so proceeded against unsuccessfully or with only partial success, any sum due or the balance of any sum due, as the case may be, from such defaulter on account of a tax may be recovered from him by a suit in any court of competent jurisdiction.

Special provisions relating to taxation, etc.

Board to be a Municipality for taxation purposes.

11 of 1881.

108. A Board shall be deemed to be a municipal committee for the purposes of taxation as per the Municipal Taxation Act, 1881.

Payment to be made to a Board as service charges by Central Government or State Government.

109. The Central or the State Government, as the case may be, shall pay to a Board annually service charges for providing collective municipal services or development work in a cantonment where the Central or the State Government properties are situated as worked out by the Board based on the guidelines issued in this behalf by the Central Government or the State Government.

Power to make special provision for conservancy in certain cases.

110. A Board may make special provisions for the cleansing of any factory, hotel, club or group of buildings or lands used for any one purpose and under one management, and may fix a special rate and the dates and other conditions for periodical payment thereof, which shall be determined by a written agreement with the person liable for payment of the conservancy or scavenging tax in respect of such factory, hotel, club or group of buildings or lands:

Provided that, in fixing the amount, proper regard shall be had to the probable cost to the Board of the services to be rendered.

Exemption in case of buildings.

111. (1) When in pursuance of section 110, a Board has fixed a special rate for the cleansing of any factory, hotel, club or group of buildings or lands, such premises shall be exempted from the payment of conservancy or scavenging tax imposed in the cantonment.

(2) The following buildings and lands shall be exempt from any property tax other than tax imposed to cover the cost of specific services rendered by the Board, namely:—

(a) places set apart for public worship and either actually so used or used for no other purpose and rendering services free of cost without deriving any income whatsoever;

(b) buildings used for educational purposes, public libraries, play grounds and dharamshalas which are open to the public and from which no income is derived;

(c) hospitals and dispensaries maintained wholly by charitable contributions;

(*d*) burning and burial grounds, not being the property of the Government or a Board, which are controlled under the provisions of this Act;

(*e*) buildings or lands vested in a Board; and

(*f*) any buildings or lands, or portion of such buildings or lands, which are the property of the Government.

General Power of exemption.

112. The Central Government may, by notification in the Official Gazette, exempt, either wholly or in part from the payment of any tax imposed under this Act, any person, or class of persons or any property or goods or class of property or goods.

Exemption of poor persons.

113. A Board may exempt, for a period not exceeding one year at a time from the payment of any tax, or any portion of a tax imposed under this Act, any person who in its opinion is by reason of poverty unable to pay the same.

Composition.

114. (*1*) The Board may, with the previous sanction of the General Commanding Officer-in-Chief, the Command, allow any person to compound for any tax.

(*2*) Every sum due by reason of the composition of a tax under sub-section (*1*) shall be recoverable as if it were a tax.

Irrecoverable debts.

115. The Board may write off any sum due on account of any tax or rate or of the costs of recovering any tax or rate if such sum is, in its opinion, irrecoverable:

Provided that, where the sum written off in favour of any one person exceeds two thousand and five hundred rupees, the sanction of the General Officer Commanding-in-Chief, the Command shall be first obtained.

Obligation to disclose liability.

115. (*1*) The Chief Executive Officer, may, by written notice, call upon any inhabitant of the cantonment to furnish such information as may be necessary for the purpose of ascertaining—

(*a*) whether such inhabitant is liable to pay, or has correctly paid, any tax imposed under this Act;

(*b*) at what amount he should be assessed; or

(*c*) the annual value of the building or land which he occupies and the name and address of the owner or lessee thereof.

(*2*) If any person, when called upon under sub-section (*1*) to furnish information, neglects to furnish it within the period specified in this behalf by the Chief Executive Officer or furnishes information which is not true to the best of his knowledge or belief, he shall be punishable with fine which may extend to five thousand rupees and shall also be liable to be assessed at such amount on account of tax as the Chief Executive Officer may deem proper, and the assessment so made shall, subject to the provisions of this Act, be final.

Immaterial error not to affect liability.

117. No assessment and no charge or demand on account of any tax or fee shall be impeached or affected by reason only of any mistake in the name of any person liable to pay such tax or fee, or in the description of any property or thing, or any mistake in the amount of the assessment, charge or demand, if the directions contained in this Act and the rules and bye-laws made thereunder have in substance and effect been complied with; but any person who sustains any special damage by reason of any such mistake shall be entitled to recover such compensation for the same, as the Board may decide.

Distraint not to be invalid by reason of immaterial defect.

118. No distress levied or attachment made under this Chapter shall be deemed unlawful, nor shall any person making the same be deemed a trespasser, on account only of any defect of form in the notice of demand, warrant of distress or attachment and sale or other proceeding relating thereto; nor shall any such person be deemed a trespasser *ab initio* on account of any irregularity afterwards committed by him; but any person who sustains any special damage by reason of any such irregularity shall be entitled to recover such compensation for the same, as the Board may decide.

CHAPTER VI

CANTONMENT FUND AND PROPERTY

Cantonment fund and cantonment development fund

Cantonment fund and cantonment development fund.

119. (*1*) There shall be formed for every cantonment a cantonment fund and there shall be placed to the credit thereof the following sums, namely:—

(*a*) the balance if any, of the cantonment fund formed for the cantonment under the Cantonments Act, 1924;

2 of 1924.

(*b*) all sums received by or on behalf of the Board.

(*2*) There shall also be formed for every cantonment, a cantonment development fund and there shall be placed to the credit, thereof the following sums, namely:—

(*i*) any sum received from the Central Government or the Government of any State by way of contributions, grants, subsidies or by any other way for the implementation of any specific scheme or for the execution of any specific project;

(*ii*) any sum received from any individual or association of individuals by way of gift or deposit; and

(*iii*) any sum raised or borrowed under section 121 for the execution of specific development projects.

Custody of cantonment fund and cantonment development fund.

120. (*1*) The cantonment fund and the cantonment development fund shall be kept in separate accounts which shall be maintained in State Bank of India or any of its subsidiary banks or any nationalised bank or any scheduled commercial bank having its branch either in the cantonment or in the municipal area adjoining the cantonment.

Explanation.—In this section,—

(*i*) "nationalised bank" means corresponding new bank specified in the First Schedule to the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 or the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980;

5 of 1970.
40 of 1980.

(*ii*) "State Bank of India" means the State Bank of India constituted under the State Bank of India Act, 1955;

23 of 1955.

(*iii*) "subsidiary bank" means a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959.

38 of 1959.

(*2*) The Chief Executive Officer may with the previous sanction of the President Cantonment Board may invest any portion of cantonment fund or cantonment development fund in securities of Central Government or in such securities, including fixed deposits in banks in the best interest of the Board and may dispose of such investments or vary them for others of a like nature.

(*3*) The income resulting from any fixed deposit or from any such securities as is referred to in sub-section (*2*) or from the proceeds of the sale of any such security shall be credited to the cantonment fund or, as the case may be, the cantonment development fund.

(*4*) Every action taken under sub-sections (*2*) and (*3*) may be subsequently brought to the next meeting of the Board.

Power of Board to borrow money.

121. A Board may from time to time by a resolution passed in this behalf borrow money from another Board, on mutually agreeable terms any sum of money which may be required for the schemes or projects covered under this Act.

Property

Property.

122. Subject to any special reservation made by the Central Government all property of the nature hereinafter in this section specified which has been acquired or provided or is maintained by a Board shall vest in and belong to that Board, and shall be under its direction, management and control, that is to say,—

(*a*) all markets, slaughter-houses, manure and night-soil depots, and buildings of every description;

(*b*) all water-works for the supply, storage or distribution of water for public purposes and all bridges, buildings, engines, materials, and things connected therewith or appertaining thereto;

(*c*) all sewers, drains, culverts and water-courses, and all works, materials and things appertaining thereto;

(*d*) all dust, dirt, dung, ashes, refuse, animal matter, filth and rubbish of every kind, and dead bodies of animals collected by the Board from the streets, houses, privies, sewers, cesspools or elsewhere, or deposited in places appointed by the Board for such purposes;

(*e*) all lamps and lamp-posts and apparatus connected therewith or appertaining thereto;

(*f*) all lands or other property transferred to the Board by the Central or a State Government, or by gift, purchase or otherwise for local public purposes; and

(*g*) all streets and the pavements, stones and other materials thereof, and also all trees, erections, materials, implements, and things existing on or appertaining to streets.

Application of cantonment fund, cantonment development fund and property.

123. The cantonment fund, cantonment development fund and all property vested in a Board shall be applied for the purposes, whether express or implied, for which, by or under this Act or any other law for the time being in force, powers are conferred or duties or obligations are imposed upon the Board:

Provided that the Board shall not incur any expenditure for acquiring or renting land beyond the limits of the cantonment or for constructing any work beyond such limits except—

(*a*) with the sanction of the Central Government, and

(*b*) on such terms and conditions as the Central Government may impose:

Provided further that priority shall be given in the order hereinafter set forth to the following liabilities and obligations of a Board, that is to say,—

(*a*) to the liabilities and obligations arising from a trust legally imposed upon or accepted by the Board;

(*b*) to the repayment of, and the payment of interest on, any loan incurred under the provisions of the Local Authorities Loan Act, 1914 or under the provisions of this Act. 9 of 1914.

(*c*) to the payment of establishment charges;

(*d*) to the payment of any sum the payment of which is expressly required by the provisions of this Act or any rule or bye-law made thereunder.

Acquisition of immovable property.

124. When there is any hindrance to the permanent or temporary acquisition upon payment of any land required by a Board for the purposes of this Act, the Central Government may, on the recommendation of the Board, procure the acquisition thereof under the provisions of the Land Acquisition Act, 1894, and, on payment by the Board of the compensation 1 of 1894.

awarded under that Act and of the charges incurred by the Government in connection with the proceedings, the land shall vest in the Board.

125. The Central Government may make rules consistent with this Act to provide for all or any of the following matters, namely:— Power to make rules regarding cantonment fund, cantonment develpment fund and property.

(*a*) the conditions on which property may be acquired by Boards or on which property vested in a Board may be transferred by sale, mortgage, lease, exchange or otherwise; and

(*b*) any other matter relating to the cantonment fund or cantonment development fund or cantonment property, in respect of which no provision or insufficient provision is made by or under this Act and provision is, in the opinion of the Central Government necessary.

CHAPTER VII

CONTRACTS

126. Subject to the provisions of this Chapter, every Board shall be competent to enter into and perform any contract necessary for the purposes of this Act. Contracts by whom to be executed.

127. (*1*) Every contract — Sanction.

(*a*) for which budget provision does not exist, or

(*b*) which involves a value or amount exceeding rupees fifty thousand shall require the sanction of the Board.

(*2*) Every contract other than a contract such as is referred to in sub-section (*1*) shall be sanctioned by the Chief Executive Officer on behalf of the Board.

128. (*1*) Every contract made by or on behalf of a Board, the value or amount of which exceeds fifty thousand rupees, shall be in writing, and every such contract shall, be signed by two members, of whom the President or the Vice-President shall be one, and be countersigned by the Chief Executive Officer and be sealed with the common seal of the Board. Execution of contract.

(*2*) Where the Chief Executive Officer executes a contract on behalf of the Board sanctioned under sub-section (*2*) of section 127, he shall submit a report, on the execution of the contract, to the Board at its next meeting.

129. If any contract is executed by or on behalf of a Board, otherwise than in conformity with the provisions of this Chapter, it shall not be binding on the Board. Contracts improperly executed not to be binding on a Board.

CHAPTER VIII

SANITATION AND THE PREVENTION AND TREATMENT OF DISEASE

Sanitary authorities

130. The following officers shall, for the purposes of sanitation, have control over, and be responsible for maintaining in a sanitary condition, those parts of a cantonment, respectively, which are specified in the case of each, that is to say:— Responsibility for sanitation.

(*a*) the Officer Commanding the army in the cantonment—all buildings and lands which are occupied or used for army purposes;

(*b*) the Officer Commanding the navy in the cantonment—all buildings and lands which are occupied or used for naval purposes;

(*c*) the Officer Commanding the air force in the cantonment—all buildings and lands which are occupied or used for air force purposes;

(*d*) the Officer Commanding the station in the cantonment—all buildings and lands, occupied or used for any defence purpose, other than those referred to in clauses (*a*), (*b*) and (*c*);

(*e*) the head of any civil department or railway administration occupying as such any part of the cantonment—all buildings and lands in his charge as head of that department or administration;

(*f*) the head of any establishment or installation of the Defence Research and Development Organisation in the cantonment— buildings and lands which are occupied or used for the purposes of the Defence Research and Development Organisation in the cantonment;

(*g*) the head of a Public Sector Undertaking— the buildings and lands belonging to such undertaking in the cantonment;

(*h*) the Chief Executive Officer—the buildings and lands in the civil area of the cantonment and all other buildings and lands not covered in clauses (*a*) to (*g*) above.

General duties of Health Officer.

131. (*1*) The Health Officer shall be the Advisor to the Board in all matters relating to sanitation and exercise a general sanitary supervision over the cantonment and shall periodically submit a report along with his recommendations at least once in every month to the Board.

(*2*) The Assistant Health Officer shall perform such duties in connection with the sanitation of the cantonment as are, subject to the control of the Board, allotted to him by the Health Officer.

Conservancy and sanitation

Public latrines, urinals and conservancy establishments.

132. All public latrines and urinals provided or maintained by a Board shall be so constructed as to provide separate compartments for each sex and the compartments so constructed shall be made accessible to and barrier free for the persons with disabilities and shall be provided with all necessary conservancy establishments, and shall regularly be cleansed and kept in proper order.

Duty of occupier to collect and deposit rubbish, etc.

133. (*1*) It shall be the duty of an occupier of a building or land—

(*a*) to make adequate arrangements for the house scavenging of the building or land;

(*b*) to provide receptacles of the type and in the manner prescribed by the Chief Executive Officer for the collection therein of all filth, rubbish and other offensive matter from such building or land and to keep such receptacle in good condition and repair;

(*c*) to cause all filth, rubbish and other offensive matter collected in receptacles and to be removed and deposited in the public receptacles, depots or places provided or appointed under sub-section (*1*) of section 135.

(*2*) For the purpose of this section and section 134, "house scavenging" means the removal of filth, rubbish or other offensive matter from a privy, latrine, urinal, drain, cesspool or other common receptacle for such matter.

Power of Board to undertake private conservancy arrangement.

134. (*1*) On the application or with the consent of the occupier of any building or land, or, where the occupier of any building or land fails to make arrangements to the satisfaction of the Chief Executive Officer for the matters referred to in this section, without such consent, and after giving notice in writing to the occupier, the Chief Executive Officer may undertake the house scavenging of any building or land in the cantonment for such period as he thinks fit on such terms as he may specify in this behalf.

(*2*) Where the Chief Executive Officer has undertaken the duties referred to in this section, all matter removed in the performance of such duties shall be the property of the Board.

Deposits and disposal of rubbish, etc.

135. (*1*) Every Board shall provide or appoint, in proper and convenient situations, public receptacles, depots or places for the temporary deposit or disposal of household rubbish, offensive matter, carcases of dead animals and sewage.

(*2*) The Chief Executive Officer may, by public notice, issue directions as to the time at which, the manner in which, and the conditions subject to which, any matter referred to in sub-section (*1*) may be removed along a street or may be deposited or otherwise disposed of.

(*3*) All matter deposited in receptacles, depots or places provided or appointed under this section shall be the property of the Board.

Cesspools, receptacles, for filth, etc.

136. The Chief Executive Officer of any cantonment may, by notice in writing—

(*a*) require any person having the control whether as owner, lessee or occupier of any land or building in the cantonment—

(*i*) to close any cesspool appertaining to the land or building which, in the opinion of the Chief Executive Officer, is a nuisance, or

(*ii*) to keep in a clean condition, in such manner as may be prescribed by notice, any receptacle for filth or sewage accumulating on the land or in a building, or

(*iii*) to prevent the water of any private latrine, urinal, sink or bathroom or any other offensive matter, from soaking, draining or flowing, or being put, from the land or building upon any street or other public place, or into any water-course or into any drain not intended for the purpose, or

(*iv*) to collect and deposit for removal by the conservancy establishment of the Board, within such time and in such receptacle or place, as may be specified in the notice, any offensive matter or rubbish which such person has allowed to accumulate or remain under, in or on such building or land; or

(*b*) require any person to desist from making or altering any drain leading into a public drain; or

(*c*) require any person having the control of a drain in the cantonment to cleanse, purify, repair or alter the same, or otherwise put it in good order, within such time as may be specified in the notice.

Filling up of tank, etc.

137. (*1*) Where any well, tank, cistern, reservoir container, desert cooler or any other, receptacle or place in the cantonment where water is stored or accumulated, whether within any private enclosure or not, is in such a condition as to create a nuisance or, in the opinion of the Health Officer, is or is likely to be a breeding place for mosquitoes, the Board may, by notice in writing, require the owner, lessee or occupier thereof within such period as may be specified in the notice, to fill up or cover the well, cistern, reservoir or receptacle, or to fill up the tank, or to drain off or remove the water, as the case may be.

(*2*) The Board may from time to time take such measures as are necessary in its opinion for prevention of breeding of mosquitoes, insects or any bacterial or viral carriers of disease in public places under the control or management of the Board.

(*3*) The Board may, if it thinks fit, meet the whole or any portion of the expenses incurred in execution of work mentioned in sub-sections (*1*) and (*2*) of this section.

Provision of latrines, etc.

138. The Chief Executive Officer may, by notice in writing, require the owner or lessee of any building or land in the cantonment to provide, in such manner as may be specified in the notice, any latrine, urinal, cesspool, dust-bin or other receptacle for filth, sewage, or rubbish, or any additional latrine, urinal, cesspool or other receptacle as aforesaid, which should, in his opinion, be provided for the building or land.

Sanitation in factories, etc.

139. Every person employing, whether on behalf of the Government or otherwise, more than ten workmen or labourers, and every person managing or having control of a market, school, theatre or other place of public resort, in a cantonment shall give notice of the fact to the Chief Executive Officer, and shall provide such latrines and urinals, and shall employ such number of sweepers, as the Chief Executive Officer thinks fit, and shall cause the latrines and urinals to be kept clean and in proper order:

Provided that nothing in this section shall apply in the case of a factory to which the Factories Act, 1948 applies. 63 of 1948.

Private latrines.

140. Subject to the provisions of the Employment of Manual Scavenger and Construction of Dry Latrine (Prohibition) Act, 1993, the Chief Executive Officer or any official of the Board authorised by him may, by notice in writing,— 46 of 1993.

(*a*) require the owner or other person having the control of any private latrine, or, urinal in the cantonment not to put the same to public use; or

(*b*) where any plan for the construction of private latrines or urinals has been approved, and copies thereof may be obtained free of charge on application—

(*i*) require any person repairing or constructing any private latrine or urinal not to allow the same to be used until it has been inspected by an official of the Board authorised by the Chief Executive Officer, or under the direction of the Health Officer and approved by him as conforming with such plan; or

(*ii*) require any person having control of any private latrine or urinal to re-build or alter the same in accordance with such plan; or

(*c*) require the owner or other person having the control of any such private latrine or urinal which, in the opinion of the Chief Executive Officer, constitutes a nuisance, to remove the latrine or urinal; or

(*d*) require any person having the control whether as owner, lessee or occupier of any land or building in the cantonment—

(*i*) to have any latrines provided for the same shut out by a sufficient roof and wall or fence from the view of persons passing by or dwelling in the neighborhood, or

(*ii*) to cleanse in such manner as the Chief Executive Officer may specify in the notice any latrine or urinal belonging to the land or building;

(*e*) require any person being the owner and having the control of any drain in the cantonment to provide, within ten days from the service of the notice, such covering as may be specified in the notice.

Special provisions for collection of rubbish and solid waste management.

141. (*1*) All solid waste material generated in a cantonment shall be removed by the Board and be brought to the compost sites or sanitary land sites or trenching sites earmarked by it for the purpose.

(*2*) The Board shall also devise schemes for collecting rubbish and garbage from each house in the cantonment and may, if considers necessary, associate residents' welfare associations or such other non governmental organisation for this purpose.

(*3*) As far as possible the Board shall devise appropriate system to ensure that all compostable or bio-degradable waste in the cantonment is recycled and used for generating manure, bio-gas or any other form of energy.

Removal of congested buildings.

142. (*1*) Where it appears to a Board that any block of buildings in the cantonment is in an unhealthy condition by reason of the manner in which the buildings are crowded together, or of the narrowness or closeness of the street, or of the want of proper drainage or ventilation, or of the impracticability of cleansing the buildings or other similar cause, it may cause the block to be inspected by a committee consisting of—

(*a*) the Health Officer,

(*b*) the Civil Surgeon of the district or, if his services are not available, some other medical officer in the service of the Government,

(*c*) the Executive Engineer or a person deputed by the Executive Engineer in this behalf, and

(*d*) two non-official members of the Board.

(*2*) The committee shall make a report in writing to the Board regarding the sanitary condition of the block, and, if it considers that the condition thereof is likely to cause risk of disease to the inhabitants of the building or of the neighbourhood or otherwise to endanger the public health, it shall clearly indicate on a plan verified by the Executive Engineer or the person deputed by him to serve on the committee, the buildings which should in its opinion wholly or in part be removed in order to abate the unhealthy condition of the block.

(*3*) If, upon receipt of such report, the Board is of opinion that all or any buildings indicated should be removed, it may, by notice in writing, require the owners thereof to remove them:

Provided that the Board shall make compensation as it thinks fit to the owners for any buildings so removed which have been erected under proper authority:

Provided further that the Board may if it considers it equitable in the circumstances so to do pay to the owners such sum as it thinks fit as compensation for any buildings so removed which have not been erected under proper authority.

(*4*) For the purposes of this section "buildings" includes enclosure, walls and fences appertaining to buildings.

Overcrowding of dwelling houses.

143. (*1*) Where it appears to a Board that any building or part of a building in the cantonment which is used as a dwelling house is so overcrowded as to endanger the health of the inmates thereof, it may, after such inquiry as it thinks fit, by notice in writing require the owner or occupier of the building or part thereof, as the case may be, within such time not being less than one month as may be specified in the notice, to abate the overcrowding of the same by reducing the number of lodgers, tenants, or other inmates to such number as may be specified in the notice.

(*2*) Any person who fails, without reasonable cause, to comply with a requisition made upon him under sub-section (*1*) shall be punishable with fine which may extend to two thousand five hundred rupees, and, in the case of a continuing offence, to an additional fine which may extend to two hundred fifty rupees for every day after the first during which the failure has continued.

Power to require repair or alteration of building.

144. (*1*) Where any building in a cantonment is so ill-constructed or dilapidated as to be, in the opinion of the Board, in an insanitary state, the Board may, by notice in writing, require the owner, within such time as may be specified in the notice, to execute such repairs or to make such alterations as it thinks necessary for the purpose of removing such defects.

(*2*) A copy of every notice issued under sub-section (*1*) shall be conspicuously pasted on the building to which it relates.

(*3*) A notice issued under sub-section (*1*) shall be deemed to have been complied with, if the owner of the building to which it relates has, instead of executing the repairs or making the alterations directed by the notice, removed the building.

Power to require land or building to be cleansed.

145. (*1*) If any building or land, whether tenantable or otherwise, is—

(*i*) in an insanitary, filthy or unwholesome state; or

(*ii*) in the opinion of the Chief Executive Officer, a nuisance to persons residing in the neighbourhood; or

(*iii*) overgrown with prickly-pear or rank and noisome vegetation the Chief Executive Officer may, by notice in writing, require the owner, lessee or occupier of such building or land to clean, lime-wash internally or externally, clear, or otherwise put such building or land in a proper state within such period as may be specified in the notice.

(*2*) Any person who fails to comply with the notice issued under sub-section (*1*) shall be punishable with fine which may extend to five thousand rupees, and, in the case of a continuing offence, with an additional fine which may extend to two hundred fifty rupees for each day after the first during which the offence continues.

Prohibition in respect of air pollutant.

146. No owner, occupier, lessee or any other occupant of the premises shall allow or cause to be allowed any air pollutant above the standards, laid down under clause (*g*) of sub-section (*1*) of section 17 of the Air (Prevention and Control of Pollution) Act, 1981. 14 of 1981.

Power to order disuse of house.

147. If a Board is satisfied that any building or part of a building in the cantonment which is intended for or used as a dwelling place is unfit for human habitation, it may cause a notice to be pasted on some conspicuous part of the building prohibiting the owner or occupier thereof from using the building or room for human habitation, or allowing it to be so used, until it has been rendered fit for such use to the satisfaction of the Board.

Removal of noxious vegetation.

148. The Chief Executive Officer may, by notice in writing, require the owner, lessee, or occupier of any land in the cantonment to clear away and remove any thick or noxious vegetation or undergrowth which appears to him to be injurious to health or offensive to persons residing in the neighbourhood.

Agriculture and irrigation.

149. Where, in the opinion of a Board, the cultivation in the cantonment of any description of crop or the use therein of any kind of manure or the irrigation of any land therein in any specified manner is likely to be injurious to the health of persons dwelling in the neighbourhood, the Board may, by public notice, prohibit such cultivation, use or irrigation after such date as may be specified in the notice, or may, by a like notice, direct that it shall be carried out subject to such conditions as the Board thinks fit :

Provided that if, when a notice is issued under this section, any land to which it relates has been lawfully prepared for cultivation or any crop is sown therein or is standing thereon, the Board shall, if it directs that the notice is to take effect on a date earlier than that by which the crop would ordinarily be sown or reaped, as the case may be, make compensation to all persons interested in the land or crop for the loss, if any, incurred by them respectively by reason of compliance with the notice.

Burial and burning grounds

Power to call for information regarding burial and burning grounds.

150. The Chief Executive Officer may, by notice in writing, require the owner or person in-charge of any burial or burning ground in the cantonment to supply such information as may be specified in the notice concerning the condition, management or position of such ground.

Permission for use of new burial or burning ground.

151. (*1*) No place in a cantonment which has not been used as a burial or burning ground before the commencement of this Act shall be so used without the permission in writing of the Board.

(*2*) Such permission may be granted subject to any conditions which the Board thinks fit to impose for the purpose of preventing annoyance to, or danger to the health of, persons residing in the neighbourhood.

152. (*1*) Where a Board, after making or causing to be made local inquiry, is of opinion that any burial or burning ground in the cantonment has become offensive to, or dangerous to the health of, persons living in the neighbourhood, it may, with the previous sanction of the Central Government by notice in writing, require the owner or person in charge of such ground to close the same from such date as may be specified in the notice. Power to require closing of burial or burning ground.

(*2*) Where the Central Government sanctions the issue of any notice under sub-section (*1*) it shall declare the conditions on which the burial or burning ground may be re-opened, and a copy of such declaration shall be annexed to the notice.

(*3*) Where the Central Government sanctions the issues of any such notice, it shall require a new burial or burning ground to be provided at the expense of the cantonment fund, or, if the community concerned is willing to provide a new burial or burning ground, the Central Government shall require a grant to be made from the cantonment fund towards the cost of the same.

(*4*) No corpse shall be buried or burnt in any burial or burning ground in respect of which a notice issued under this section is for the time being in force.

153. The provisions of sections 150, 151 and 152 shall not apply in the case of any burial ground which is for the time being managed by or on behalf of the Government. Exemption from operation of sections 150 to 152.

154. The Board may, by public notice, prescribe routes in the cantonment by which alone corpses may be removed to burial or burning grounds. Removal of corpses.

Prevention of infectious, contagious or communicable diseases

155. (*1*) Any person being in charge of, or in attendance, whether as a medical practitioner or otherwise, upon any person in a cantonment whom he knows or has reason to believe to be suffering from a contagious, communicable or infectious disease, or being the owner, lessee or occupier of any building in a cantonment in which he knows that any person is so suffering, shall forthwith give information to the Board respecting the existence of such disease. Obligation concerning infectious, contagious or communicable diseases.

(*2*) No person shall—

(*a*) knowing that he is suffering from a contagious, communicable or an infectious disease, expose other persons to the risk of infection by his presence or conduct in any public street or public place;

(*b*) having the care of a person whom he knows to be suffering from a contagious, communicable or an infectious disease cause or permit that person to expose other persons to the risk of infection by his presence or conduct in any such street or place as aforesaid;

(*c*) place or cause to be placed in a dustbin or other receptacle for the deposit of rubbish any matter which he knows or has reason to believe to have been exposed to infection from a contagious, communicable or an infectious disease and which has not been disinfected properly;

(*d*) throw or cause to be thrown into any latrine or urinal any matter which he knows or has reason to believe to have been exposed to infection from a contagious, communicable or an infectious disease and which has not been disinfected properly.

(*3*) Nothing contained in sub-section (*1*) or sub-section (*2*) shall apply in the case of venereal disease where the person suffering therefrom is under specific and adequate medical treatment and is by reason of his habits and conditions of life and residence unlikely to spread the disease.

(*4*) Whoever—

(*a*) fails to give information or gives false information to the Board respecting the existence of such disease as is referred to in sub-section (*1*), or

(*b*) contravenes the provisions of sub-section (*2*), shall be punishable with fine which may extend to one thousand rupees:

Provided that no person shall be punishable for failure to give information if he had reasonable cause to believe that the information had already been duly given.

Blood bank.

156. Subject to the provisions of any Act made in this regard and the rules and regulations made thereunder, whoever, being in charge of a blood bank or any other establishment which collects or supplies blood, plasma, marrow or any other substance for transfusion or treatment of patients or for any other medical use, fails to take adequate precautions or exercise adequate supervision thereby leading to or resulting in the supply of infected or contaminated blood, plasma, marrow or any other substance, shall be punishable with imprisonment which may extend to five years or with fine which may extend to one lakh rupees or with both.

Special measures in case of outbreak of infectious or epidemic diseases.

157. (*1*) In the event of a cantonment being visited or threatened by an outbreak of any infectious or contagious disease among the inhabitants thereof or of any epidemic disease among any animals therein, the Officer Commanding the Station, if he thinks that the provisions of this Act or of any law for the time being in force in the cantonment are insufficient for the purpose, may, with the previous sanction of the Central Government—

(*a*) take such special measures, and

(*b*) by public notice, make such temporary regulations to be observed by the public or by any class or section of the public, as he thinks necessary to prevent the outbreak or the spread of the disease:

Provided that where in the opinion of the Officer Commanding the Station, immediate measures are necessary, he may take action without such sanction as aforesaid and, if he does so, shall forthwith report such action to the Central Government.

(*2*) Whoever commits a breach of any temporary regulation made under sub-section (*1*) shall be deemed to have committed an offence under section 188 of the Indian Penal Code. 45 of 1860.

Power to require names of dairyman's customers.

158. Where it is certified to the Chief Executive Officer by a medical practitioner that the outbreak or spread of any infectious or contagious disease in the cantonment is, in the opinion of such medical practitioner, attributable to the milk supplied by any dairyman, the Chief Executive Officer may, by notice in writing, require the dairyman, within such time as may be specified in the notice, to furnish him with a full and complete list of the names and addresses of all his customers within the cantonment, or to give him such information as will enable him to trace the persons to whom the dairyman has sold milk.

Power to require names of a washerman's customers.

159. Where it is certified to the Chief Executive Officer by the Health Officer that it is desirable, with a view to prevent the spread of any infectious or contagious disease in the cantonment, that the Health Officer should be furnished with a list of the customers of any washerman, the Chief Executive Officer may, by notice in writing, require the washerman, within a time to be specified in the notice, to furnish the Health Officer with a full and complete list of the names and addresses of all owners within the cantonment of clothes and other articles which the washerman washes or has washed during the six weeks immediately preceding the date of the notice.

Explanation.—For the purposes of this section, the expression "washerman" shall mean an individual, body corporate, association of persons engaged in washing clothes in a cantonment.

160. Where it is certified to the Chief Executive Officer by the Health Officer or a doctor in the employment of the Board that there is apprehension of the outbreak or spreading of any infectious or contagious or communicable disease in the cantonment because of use of contaminated needles, syringes or any other such equipment by a medical practitioner or by any paramedical worker, the Chief Executive Officer may, by notice in writing, require the medical practitioner or the paramedical worker, within such time as may be specified in the notice, to furnish him with a full and complete list of the names and addresses of all his customers or patients within the cantonment, or to give him such information as will enable him to trace the persons whom the medical practitioner or the paramedical worker has attended to or treated in the six weeks preceding the date of issuing the notice.

Power to require names of patients or customers of a medical practitioner or paramedical workers.

161. Where, after inspection the Health Officer is of opinion that any infectious, contagious or communicable disease is caused or is likely to arise in the cantonment from the consumption of the milk supplied from a dairy or from the washing of clothes or other articles in any place, or from any process employed by a washerman, or from use of contaminated needles, syringes or other such equipment by a medical practitioner or any paramedical staff, he shall report the matter to the Chief Executive Officer.

Report after inspection of dairy or washerman or medical practitioner's place of business.

162. Upon receipt of a report submitted by the Health Officer under section 161, the Chief Executive Officer may, by notice in writing,—

Action on report submitted by Health Officer.

(*a*) prohibit the supply of milk from the dairy until the notice has been withdrawn; or

(*b*) prohibit the washerman from washing clothes or other articles in any such place or by any such process as aforesaid until the notice has been withdrawn or unless he uses such place in such manner, or washes by process, as the Chief Executive Officer may direct in the notice; or

(*c*) prohibit the medical practitioner or the paramedical worker from using any such needles, syringes or other such equipment unless the notice is withdrawn or rectification as may be required in the notice is carried out.

163. The Health Officer or a doctor in the employment of the Board may take possession of any milk, clothes or other articles which are or have recently been in the possession of any dairyman on whom a notice has been served under section 158, or of any clothes or other articles which are or have recently been in the possession of any washerman, on whom a notice has been served under section 159, or any needles, syringes or such other equipment which are or have recently been in the possession of the medical practitioner or paramedical worker to whom a notice under section 160 has been issued and may subject the same or cause the same to be subjected to such chemical or other process as he may think necessary; and the Board shall pay from the cantonment fund all the costs of the process and shall also pay to the owner of the milk, clothes or other articles such sum as compensation for any loss occasioned by such process as may appear to it to be reasonable.

Examination of milk, washed clothes or needles, syringes, etc.

164. Whoever in a cantonment—

Contamination of public conveyance.

(*a*) uses a public conveyance while suffering from an infectious or contagious disease, or

(*b*) uses a public conveyance for the carriage of a person who is suffering from any such disease, or

(*c*) uses a public conveyance for the carriage of the corpse of a person who has died from any such disease,

shall be bound to take proper precautions against the communication of the disease to other persons using or who may thereafter use the conveyance and to notify such use to

the owner, driver or person incharge of the conveyance, and further to report without delay to the Chief Executive Officer the number of the conveyance and the name of the person so notified.

Disinfection of public conveyance.

165. (*1*) Where any person suffering from, or the corpse of any person who has died from, an infectious, communicable or contagious disease has been carried in a public conveyance which ordinarily plies in a cantonment, the driver thereof shall forthwith report the fact to the Chief Executive Officer who shall forthwith cause the conveyance to be disinfected if that has not already been done.

(*2*) No such conveyance shall be brought again into use until the Chief Executive Officer has granted a certificate stating that it can be used without causing risk of infection.

Penalty for failure to report.

166. Whoever fails to make to the Chief Executive Officer any report which he is required to make by section 164 or section 165 shall be punishable with fine which may extend to one thousand rupees.

Driver of conveyance not bound to carry person suffering from infectious or contagious disease.

167. Notwithstanding anything contained in any law for the time being in force, no owner, driver or person incharge of a public conveyance shall be bound to convey or to allow to be conveyed in such conveyance in or in the vicinity of a cantonment any person suffering from an infectious or contagious disease or the corpse of any person who has died from such disease unless and until such person pays or tenders a sum fixed by the Chief Executive Officer from time to time, to cover any loss and expense which would ordinarily be incurred in disinfecting the conveyance.

Disinfection of building or articles therein.

168. Where a Board is, upon the advice of the Health Officer, of opinion that the cleansing and disinfection of any building or part of a building in the cantonment or of any articles in any such building or part which are likely to retain infection, or the renewal of the flooring of any such building or part of such building, would tend to prevent or check the spread of any infectious or contagious disease, the Board may by notice in writing, require the owner or occupier to cleanse and disinfect, the said building, part or articles, as the case may be, or to renew the said flooring, within such time as may be specified in the notice:

Provided that where, in the opinion of the Board the owner or occupier is from poverty or any other cause unable effectually to carry out any such requisition, the Board may, at the expense of the cantonment fund, cleanse and disinfect the building, part or articles, or as the case may be, renew the flooring.

Destruction of infectious hut or shed.

169. (*1*) Where the destruction of any hut or shed in a cantonment is, in the opinion of the Board, necessary to prevent the spread of any infectious or contagious disease, the Board may, by notice in writing, require the owner to destroy the hut or shed and the materials thereof within such time as may be specified in the notice.

(*2*) Where the President of a Board is satisfied that the destruction of any hut or shed in the cantonment is immediately necessary for the purpose of preventing the spread of any infectious or contagious disease, he may order the owner or occupier of the hut or shed to destroy the same forthwith, or may himself cause it to be destroyed after giving not less than two hours' notice to the owner or occupier thereof.

(*3*) The Board shall pay compensation to the owner of any hut or shed destroyed under this section.

Temporary shelter for inmates of disinfected or destroyed building or shed.

170. The Board shall provide free of charge temporary shelter or house accommodation for the members of any family in which an infectious or contagious disease has appeared who have been compelled to leave their dwelling by reason of any proceedings taken under section 168 or section 169, and who desire such shelter or accommodation as aforesaid to be provided for them.

171. *(1)* Where in a cantonment any building or part of a building is intended to be let, in which any person has, within six weeks immediately preceding, been suffering from an infectious or contagious disease, the person letting the building or part shall before doing so disinfect the same in such manner as the Chief Executive Officer may, by public or special notice, direct, together with all articles therein liable to retain infection.

Disinfection of building before letting the same.

(2) For the purposes of this section, the keeper of a hotel, lodging house or sarai shall be deemed to let to any person who is admitted as a guest therein that part of the building in which such person is permitted to reside.

172. No person shall, without previous disinfection of the same, give, lend, sell, transmit or otherwise dispose of to another person any article or thing which he knows or has reason to believe has been exposed to contamination by any infectious or contagious disease and is likely to be used in, or taken into, a cantonment:

Disposal of infected article without disinfection.

173. *(1)* Every Board shall—

Means of disinfection.

(a) provide proper places with necessary attendants and apparatus for the disinfection of conveyances, clothing, bedding or other articles which have been exposed to infection;

(b) cause conveyances, clothing or other articles brought for disinfection to be disinfected either free of charge or on payment of such charges as the Chief Executive Officer may fix.

(2) The Chief Executive Officer may notify places at which articles of clothing, bedding, conveyances or other articles which have been exposed to infection shall be washed, and, if it does so, no person shall wash any such thing at any place not so notified without having previously disinfected such thing.

(3) The Chief Executive Officer may direct the destruction of any clothing, bedding or other article in the cantonment likely to retain infection, and may give such compensation as he thinks fit for any article so destroyed.

174. Whoever, while suffering from, or in circumstances in which he is likely to spread, any infectious or contagious disease,—

Making or selling of food, etc., or washing clothes by infected person.

(a) makes, carries or offers for sale in a cantonment or takes any part in the business of making, carrying or offering for sale therein any article of food or drink or any medicine or drug for human consumption, or any article of clothing or bedding for personal use or wear, or

(b) takes any part in the business of the washing or carrying of clothes,

shall be punishable with fine which may extend to five thousand rupees.

175. When a cantonment is visited or threatened by an outbreak of any infectious or contagious disease, the Chief Executive Officer on behalf of the Board may, by public notice, restrict in such manner or prohibit for such period, as may be specified in the notice, the sale or preparation of any article of food or drink for human consumption specified in the notice or the sale of any flesh of any description of animals so specified.

Power to restrict or prohibit sale of food or drink.

176. *(1)* If the Chief Executive Officer on the advice given by the Health Officer is of opinion that the water in any well, tank or other place is likely, if used for drinking, to endanger, or cause the spread of, any disease, it may,—

Control over wells, tanks, etc.

(a) by public notice, prohibit the removal or use of such water for drinking;

(b) by notice in writing, require the owner or person having control of such well, tank or place to take such steps as may be directed by the notice to prevent the public from having access to or using such water; or

(c) take such other steps as it may consider expedient to prevent the outbreak or spread of any such disease.

(2) In the event of a cantonment or any part of a cantonment being visited or threatened by an outbreak of any infectious or contagious disease, the Health Officer or any person authorised by him in this behalf may, without notice and at any time, inspect and disinfect any well, tank or other place from which water is, or is likely to be, taken for the purposes of drinking, and may further take such steps as he thinks fit to ensure the purity of the water or to prevent the use of the same for drinking purposes.

Disposal of infectious corpse.

177. Where any person has died in a cantonment from any infectious or contagious disease, the Chief Executive Officer, may, by notice in writing,—

(a) require any person having charge of the corpse to convey the same to a mortuary, thereafter to be disposed of in accordance with law; or

(b) prohibit the removal of the corpse from the place where death occurred except for the purpose of being buried or burned or of being conveyed to a mortuary.

Hospitals and dispensaries

Maintenance or aiding of hospitals or dispensaries.

178. (1) A Board may—

(a) provide and maintain either within or without the cantonment as many hospitals and dispensaries as it thinks fit; or

(b) make, upon such terms as it thinks fit to impose, a grant-in-aid to any hospital or dispensary or veterinary hospital, whether within or without the cantonment, not maintained by it.

(2) Every hospital or dispensary maintained or aided under sub-section (1) shall have attached to it a ward or wards for the treatment of persons suffering from infectious or contagious diseases.

(3) The Medical Officer appointed by the Board shall be incharge of every Hospital and dispensary maintained or aided under this section and be responsible to the Health Officer for medical activities and to the Chief Executive Officer for over all administrative activities of the hospital.

Medical supplies, appliances, etc.

179. (1) Every hospital or dispensary maintained or aided under section 178 shall be maintained in accordance with any general or special orders of the Central Government for the conduct of hospitals and dispensaries or in accordance with the said orders modified in such manner as the Central Government may think fit.

(2) The Board shall cause every such hospital or dispensary to be provided with all requisite drugs, instruments, apparatus, furniture and appliances and with sufficient cots, bedding and clothing for in-patients.

Free patients.

180. At every hospital or dispensary maintained or aided under section 178, the sick poor of the cantonment, and other inhabitants of the cantonment suffering from infectious, communicable or contagious disease, and, with the sanction of the Board, any other sick persons, may receive medical or surgical treatment free of cost, and, if treated as in-patients, shall be either dieted gratuitously or, if the medical officer in charge so directs, shall be granted subsistence allowance on such scale as the Board may fix.

Paying patients.

181. Any sick person who is ineligible to receive medical or surgical treatment free of cost in any hospital or dispensary under section 180 may be admitted for treatment therein upon such terms as the Board thinks fit.

Power to order person to attend hospital or dispensary.

182. (1) If the Health Officer or the Medical Officer in charge of a hospital or dispensary maintained or aided under section 178 has reason to believe that any person living in the cantonment is suffering from an infectious, communicable or contagious

disease, he may, by notice in writing, call upon such person to attend for examination at any such hospital or dispensary at such time as may be specified in the notice and not to quit it without the permission of the Medical Officer in charge; and, on the arrival of such person at the hospital or dispensary, the Medical Officer in charge thereof may examine him for the purpose of satisfying himself whether or not such person is suffering from an infectious, communicable or contagious disease:

Provided that, if, having regard to the nature of the disease or the condition of the person suffering therefrom, or the general environment and circumstances of such person, the Health Officer or Medical Officer, as the case may be, considers that the attendance of such person at a hospital or dispensary is likely to prove unnecessary or inexpedient, he shall examine such person at such person's own residence.

(2) If any person on examination under sub-section *(1)*, is found to be suffering from an infectious or contagious disease, the Health Officer or Medical Officer, as the case may be, may cause him to be detained in hospital until he is free from the infection or contagion:

Provided that, if having regard to the nature of the disease or the condition of the person suffering therefrom, or the general environment and circumstances of such person, he considers that the detention of such person at a hospital or dispensary is unnecessary or inexpedient, he shall discharge such person and take such measures or give such directions in the matter as he thinks necessary.

Power to exclude from cantonment persons refusing to attend hospital or dispensary.

183. *(1)* If the Health Officer or the Medical Officer in charge of a hospital or dispensary maintained or aided under section 178 reports in writing to the Officer Commanding the station that any person having received a notice under section 182 has refused or omitted to attend at the hospital or dispensary, specified in the notice, or that such person, having attended the hospital or dispensary, has quitted it without the permission of such Medical Officer, or that any person has failed to comply with any direction given to him under section 182, the Officer Commanding the station may, by order in writing, direct such person to be removed from the cantonment within twenty-four hours and not to re-enter it without his permission in writing.

(2) No person who has under sub-section *(1)* been ordered to be removed from and not to re-enter a cantonment shall enter any other cantonment without the written permission of the Officer Commanding the station.

Control of traffic for hygienic purposes

Routes for pilgrims and others.

184. *(1)* A Board may provide or prescribe suitable routes for the use of persons passing through the cantonment—

(a) on their way to or from fairs or places of pilgrimage or other places of public resort; or

(b) during times when an infectious or contagious disease is prevalent, may, by public notice, require such persons as aforesaid to use such routes and others.

(2) All routes provided or prescribed under sub-section *(1)* shall be clearly and sufficiently indicated by the Board.

Special conditions regarding essential services

Conditions of service of safai karamcharis and others.

185. *(1)* No person employed in any service, or being employed in connection with the working of any system of public conservancy or sanitation or water supply or hospitals or dispensaries or electric supply or public transport services or such other essential services under a Board in any cantonment area, shall, in the absence of any contract, resign without reasonable cause or absent himself from duty without proper authority and in case of such resignation or absence from duty he shall be punishable with imprisonment which may extend to one month; and the conditions of service specified herein shall, invariably be mentioned in the appointment letter of the persons employed to said services.

(2) The Central Government may, by notification in the Official Gazette, direct that on and from such date as may be specified in the notification, the provisions of this section shall apply in the case of any specified class of employees employed by a Board whose functions intimately concern the public health or safety.

CHAPTER IX

WATER-SUPPLY, DRAINAGE AND SEWAGE COLLECTION

Water-supply

Maintenance of water-supply.

186. *(1)* In every cantonment where a sufficient supply of potable water for domestic use does not exist, the Board shall provide or arrange for the provision of such a supply.

(2) The Board shall, as far as possible, make adequate provision that such supply shall be continuous throughout the year, and that the water shall be at all times fit for human consumption.

(3) It shall be the duty of every Board to practise and propagate the scientific methods of water harvesting including harvesting of rain water for use and make arrangement for recharging the sources of ground water including underground aquifers and to preserve rivers, streams, springs and other natural sources of water within and in the vicinity of the cantonment.

Terms of water-supply.

187. In this Chapter, unless the context otherwise requires, the following words and expression in relation to water supply shall have the respective meanings given below, namely :—

(1) "communication pipe" means :—

(a) where the premises supplied with water abut on the part of the street in which the main is laid, and the service pipe enters those premises otherwise than through the outer wall of a building abutting on the street and has a stopcock placed in those premises and as near to the boundary of that street as is reasonably practicable, so much of the service pipe as lies between the main and that stopcock;

(b) in any other case, so much of the service pipe as lies between the main and the boundary of the street in which the main is laid, and includes the ferrule at the junction of the service pipe with the main, and also,—

(i) where the communication pipe ends at in a stopcock, that stopcock; and

(ii) any stopcock fitted on the communication pipe between the end thereof and the main.

(2) "main" means a pipe laid by the Board for the purpose of giving a general supply of water as distinct from a supply to individual consumers and includes any apparatus used in connection with such a pipe.

(3) "service pipe" means so much of any pipe for supplying water from a main to any premises as is subject to water pressure from that main, or would be so subject but for the closing of some tap.

(4) "supply pipe" means so much of any service pipe as is not a communication pipe.

(5) "trunk main" means a main constructed for the purpose of conveying water from a source of supply to a filter or reservoir or from one filter or reservoir to another filter or reservoir, or for the purpose of conveying water in bulk from one part of the limits of supply to another part of those limits, or for the purpose of giving or taking a supply of water in bulk.

(6) "water fittings" includes pipes (other than mains), taps, cocks, valves, ferrules, meters, cisterns, baths and other similar apparatus used in connection with the supply and use of water.

188. *(1)* The Board may, when so required,— Board to carry out survey and formulate proposals.

(a) carry out a survey of the existing consumption of and demand for water supplies in cantonment and of the water resources in or likely to be made available in the cantonment;

(b) prepare an estimate of the future water supply requirements of the cantonment;

(c) carry out a survey of the existing quantity of sewage collection;

(d) formulate proposals as to—

(*i*) the existing or future water supply requirements of the cantonment;

(*ii*) the existing or future sewage collection requirement in cantonment including proposals for the manner in which and the place or places at which sewage should be carried, collected and treated.

(2) If the Board is of the opinion that the works and other properties for the time being vested in the Board, are inadequate for the purpose of sufficient supply of water or for the purpose of efficient collection of sewage under this Act it may take steps in accordance with the provisions of this Act for the construction of additional works, whether within cantonment or outside the cantonment with the approval of the Principal Director and for the acquisition of additional properties for such works.

189. *(1)* The Board may, with the previous sanction of the Central Government, by public notice, declare any lake, stream, spring, well, tank, reservoir or other source, whether within or without the limits of the cantonment other than a source of water-supply under the control and in use of the Military Engineer Services or the Public Works Department from which water is or may be made available for the use of the public in the cantonment to be source of public water-supply. Control over sources of public water-supply.

(2) Every such source shall be under the control of the Board and it shall be the duty of the Board to preserve and maintain such source.

190. The Chief Executive Officer may, by notice in writing, require the owner or any person having the control of any source of public water-supply which is used for drinking purposes— Power to require maintenance or closing of private source of public drinking water-supply.

(a) to keep the same in good order and to clear it from time to time of silt, refuse and decaying vegetation; or

(b) to protect the same from contamination in such manner as the Chief Executive Officer may direct; or

(c) if the water therein is proved to the satisfaction of the Chief Executive Officer to be unfit for drinking purposes, to take such measures as may be specified in the notice to prevent the public from having access to or using such water:

Provided that, in the case of a well, such person as aforesaid may, instead of complying with the notice, signify in writing his desire to be relieved of all responsibility for the proper maintenance of the well and his readiness to place it under the control and supervision of the Board for the use of the public, and, if he does so, he shall not be bound to carry out the requisition, and the Board shall undertake the control and supervision of the well.

191. *(1)* Subject to the guidelines made by the Board in this regard, the Chief Executive Officer may permit the owner, lessee or occupier of any building or land to connect the building or land with a source of public water-supply by means of communication pipes of such size and description as may be specified for the purpose of obtaining water for domestic use. Supply of water.

(2) The occupier of every building so connected with the water-supply shall be entitled to have for domestic use, in return for the water tax, if any, such quantity of water as the Chief Executive Officer may determine.

(3) All water supplied in excess of the quantity to which such supply is limited under sub-section *(2)* and, in a cantonment in which a water tax is not imposed, all water supplied under this section, shall be paid for at such rate as the Board may fix keeping in view its financial viability.

(4) The supply of water for domestic use shall not be deemed to include any supply for—

(a) animals or for washing vehicles where such animals or vehicle are kept for sale or hire;

(b) any trade, manufacture or business;

(c) fountains, swimming baths or any ornamental or mechanical purpose;

(d) gardens or for purposes of irrigation;

(e) making or watering roads or paths; or

(f) building purposes.

Power to require water-supply to be taken.

192. If it appears to the Chief Executive Officer that any building or land in the cantonment is without a proper supply of potable water, the Chief Executive Officer may, by notice in writing, require the owner, lessee or occupier of the building or land to obtain from a source of public water-supply such quantity of water, as is, adequate to the requirements of the persons usually occupying or employed upon the building or land, and to provide communication pipes of the prescribed size and description, and to take all necessary steps for the above purposes.

Supply of water under agreement.

193. *(1)* Subject to the guidelines made by the Board in this regard, the Chief Executive Officer may, by agreement, supply, from any source of public water-supply, the owner, lessee or occupier of any building or land in the cantonment with any water for any purpose, other than a domestic purpose, on such terms and conditions, consistent with this Act and the rules and bye-laws made thereunder, as may be agreed upon between the Chief Executive Officer and such owner, lessee or occupier.

(2) The Chief Executive Officer may withdraw such supply or curtail the quantity thereof at any time if it should appear necessary to do so for the purpose of maintaining sufficient supply of water for domestic use by inhabitants of the cantonment.

Board not liable for failure of supply.

194. Notwithstanding any obligation imposed on Boards under this Act, a Board shall not be liable to any forfeiture, penalty or damages for failure to supply water or for curtailing the quantity thereof if the failure or curtailment, as the case may be, arises from accident or from drought or other unavoidable cause unless, in the case of an agreement for the supply of water under section 193, the Board has made express provision for forfeiture, penalty or damages in the event of such failure or curtailment.

Conditions of universal application.

195. Notwithstanding anything hereinbefore contained or contained in any agreement under section 193, the supply of water by a Board to any building or land shall be, and shall be deemed to have been granted subject to the following conditions, namely:—

(a) the owner, lessee or occupier of any building or land in or on which water supplied by the Board is wasted by reason of the pipes, drains or other works being out of repair shall, if he has knowledge thereof, give notice of the same to such officer as the Chief Executive Officer may appoint in this behalf;

(b) the Chief Executive Officer or any other officer or employee of the Board authorised by him in writing in this behalf may enter into or on any premises supplied with water by the Board, for the purpose of examining all pipes, taps, works and fittings connected with the supply of water and of ascertaining whether there is any waste or misuse of such water;

(c) the Chief Executive Officer may, after giving notice in writing, cut off the connection between any source of public water-supply and any building or land to which water is supplied for any purpose therefrom, or turn off such supply if—

(i) the owner or occupier of the building or land neglects to pay the water tax or water rate or other charges connected with the water supply within one month from the date on which such tax or rate or charge falls due for payment;

(ii) the occupier refuses to admit the Chief Executive Officer or other authorised officer or employee of the Board into the building or land for the purpose of making any examination or inquiry authorised by clause *(b)* or prevents the making of such examination or inquiry;

(iii) the occupier wilfully or negligently misuses or causes waste of water;

(iv) the occupier wilfully or negligently injures or damages his meter or any pipe or tap conveying water from the water works;

(v) any pipes, taps, works or fittings connected with the supply of water to the building or land are found, on examination by any other officer or employee of the Board authorised by the Chief Executive Officer in writing in this behalf, to be out of repair to such an extent as to cause waste of water;

(d) the expense of cutting off the connection or of turning off the water in any case referred to in clause *(c)* shall be paid by the owner or occupier of the building or land;

(e) no action taken under or in pursuance of clause *(c)* shall relieve any person from any penalty or liability which he may otherwise have incurred.

Supply to persons outside cantonment.

196. A Board may allow any person not residing within the limits of the cantonment to take or be supplied with water for any purpose from any source of public water supply on such terms as it may prescribe, and may at any time withdraw or curtail such supply.

Penalty.

197. Whoever—

(a) uses for other than domestic purposes any water supplied by a Board for domestic use; or

(b) where water is supplied by agreement with a Board for a specified purpose, uses that water for any other purposes shall be punishable with fine which may extend to two thousand five hundred rupees, and in addition, the Board shall be entitled to recover from him the cost of the water misused.

Water, drainage and other connections

Power of Board to lay wires, connections, etc.

198. A Board may carry any cable, wire, pipe, drain, sewer or channel of any kind,—

(a) for the purpose of carrying out, establishing or maintaining any system of water-supply, lighting, drainage, or sewerage, through, across, under or over any road or street, or any place laid out or intended as a road or street, or, after giving reasonable notice in writing to the owner or occupier, into, through, across, under or over any land or building, or up side of any building, situated within the cantonment; or

(b) for the purpose of supplying water or of the introduction or distribution of outflow of water or for the removal or outflow of sewage, after giving reasonable notice in writing to the owner or occupier, into, through, across, under or over any land or building, or up side of any building, situated outside the cantonment and may at all times do all acts and things which may be necessary or expedient for repairing or maintaining any such cable, wire, pipe, drain, sewer or channel in an effective state for the purpose for which the same may be used or is intended to be used:

Provided that no nuisance shall be caused in excess of what is reasonably necessary for the proper execution of the work:

Provided further that compensation shall be payable to the owner or occupier for any damage sustained by him which is directly occasioned by the carrying out of any such operation.

Wires, etc., laid above surface of ground.

199. In the event of any cable, wire, pipe, drain, sewer or channel being laid or carried above the surface of any land or through, over or up side of any building, such cable, wire, pipe, drain sewer or channel shall be so laid or carried as to interfere as little as possible with the rights of the owner or occupier to the due enjoyment of such land or building, and compensation shall be payable by the Board in respect of any substantial interference with the right to any such enjoyment.

Connection with main not to be made without permission.

200. No person shall, for any purpose whatsoever, without the permission of the Board at any time make or cause to be made any connection or communication with any cable, wire, pipe, drain, sewer or channel constructed or maintained by, or vested in, a Board.

Power to prescribe ferrules and to establish meters, etc.

201. The Chief Executive Officer may prescribe the size of the ferrules to be used for the supply of gas, if any, and may establish meters or other appliances for the purpose of measuring the quantity of any water or gas or testing the quality thereof supplied to any premises by the Board.

Power of inspection.

202. The ferrules, communication pipes, connections, meters, stand pipes and all fittings thereon or connected therewith leading from water mains or from pipes, drains, sewers or channels into any house or land, to which water or gas is supplied by a Board, and the pipes, fittings, and works inside any such house or within the limits of any such land, shall in all cases be installed or executed subject to the inspection and to the satisfaction of the Chief Executive Officer.

Power to fix rates and charges.

203. A Board may fix the charges to be made for the establishment by them or through their agency or communications from, and connections with, mains, or pipes for the supply of water, or gas, or for meters or other appliances for measuring the quantity, or testing the quantity thereof supplied, and may levy such charges accordingly.

Application of this Chapter to Government water-supplies

Government water-supply.

204. *(1)* Where in any cantonment there is a water-supply (other than a public water-supply under the control of the Board) under the control of the Military Engineer Services or the Public Works Department, the Officer of the Military Engineer Services or of the Public Works Department, as the case may be, in charge of such water-supply (hereafter in this Chapter referred to as the Officer) may publish in the cantonment in such manner as he thinks fit a notice declaring any lake, stream, spring, well, tank, reservoir or other source, whether within or without the limits of the cantonment other than a source of public water-supply and the officer may, for the purpose of keeping any such source in good order or of protecting it from contamination or from use, require the Board to exercise any power conferred upon it by section 190.

(2) In the case of any water-supply such as is referred to in sub-section *(1)*, the following provisions of this Chapter, namely, the provisions of sections 191, 193, 194, 195, 197, 198, 199, 200, 201, 202 and 203 shall, as far as may be, be applicable in respect of the supply of water to the cantonment, and for the purpose of such application references to the Board shall be construed as references to the Officer, and references to the Chief Executive Officer or other officer or employee of the Board shall be construed as references to such person as may be authorised in this behalf by the Officer.

(3) The provisions of section 193 shall be applicable in respect of the supply of water by agreement to the Board by the Officer for use for any purpose other than a domestic purpose in like manner as they are applicable to such supply to the owner, lessee or occupier of any building or land in the cantonment.

(4) In order to preserve the underground water level, the Board may make regulations for the digging or use of bore wells in the cantonment.

Water supply for domestic consumption.

205. *(1)* Where it appears to the Chief Executive Officer that any dwelling house in the cantonment is without supply of water for domestic consumption and that such a supply can be given from mains which is not more than one hundred feet distance from any part of such dwelling house, the Chief Executive Officer may by notice require the owner to obtain supply and to execute all such works as may be necessary for this purpose.

(2) It shall not be lawful for the owner of any premises which may be constructed or reconstructed, to occupy it or cause or permit it to be occupied until he has obtained a certificate from the Chief Executive Officer that there is provided within, or within a reasonable distance of, the house supply of wholesome water as appears to the Chief Executive Officer to be sufficient for domestic consumption and use of the inmates of the house.

Recovery of charges.

206. In any case in which the provisions of section 204 apply and in which the Board is not receiving a bulk supply of water under section 207, the water-tax, if any, imposed in the cantonment and all other rates arising out of the supply of water which may be imposed under the provisions of this Chapter as applied by section 204 shall be recovered by the Board, and all monies so recovered, or such proportion thereof as the Central Government may in each case determine, shall be paid by the Board to the Officer.

Supply of water from Government water-supply to the Board.

207. *(1)* Where in any cantonment there is a water-supply such as is referred to in sub-section *(1)* of section 204, the Board may, and so long as the Board is unable to provide a water-supply of its own, it shall receive from the Military Engineer Services or the Public Works Department, as the case may be, at such point or points as may be agreed upon between the Board and the Military Engineer Services or Public Works Department, a supply of water adequate to the requirements for domestic use of all persons in the cantonment other than entitled consumers.

(2) Any supply of water received under sub-section *(1)* shall be a bulk supply, and the Board shall make such payments to the Military Engineer Services or Public Works Department for all water so received as may be agreed upon between the Board and the Military Engineer Services or Public Works Department, or, in default of such agreement, as may be determined by the Central Government to be reasonable having regard to the actual cost of supplying the water in the cantonment and the rate charge for water in any adjacent municipality:

Provided that, notwithstanding anything contained in this Act, the Board shall not charge for the supply to persons in the cantonment of water received by the Board under this section a rate calculated to produce more than the sum of the payments made to the Military Engineer Services or Public Works Department for water received and the actual cost of the supply thereof by the Board to consumers.

(3) If any dispute arises between the Board and the Military Engineer Services or Public Works Department regarding the rate and amount of water adequate to the requirements of persons in the cantonment other than entitled consumers, the disputes shall be referred to the Central Government whose decision shall be final.

Functions of the Board in relation to distribution of bulk supply.

208. Where under the provisions of sub-section *(1)* of section 207 a bulk supply of water is received by the Board, the Board shall be solely responsible for the supply of water to all persons in the cantonment other than entitled consumers; and the provisions of this Act shall apply as if such bulk supply were a source of public water-supply under

the control of the Board and as if the communications from and connections with such bulk supply for the purpose of supplying water to such persons were a system of water-supply established and maintained by the Board.

Special provisions concerning drainage and sewage.

209. *(1)* All public drains, all drains in, alongside or under any public street, except those vesting in the Military Engineer Services or any Department of the Central Government or a State Government or any autonomous body under the Central Government or a State Government and all sewage collection works, whether constructed out of the cantonment fund or otherwise and all works, material and things appertaining thereto, which are situated in the cantonment shall vest in the Board.

(2) All public and other drains, which are vested in the Board are hereafter in this Act referred to as cantonment drains.

(3) For the purposes of enlarging, deepening or otherwise repairing or maintaining any such drain or sewage collection work so much of the sub-soil appertaining thereto as may be necessary for the said purpose shall be deemed also to vest in the Board.

(4) All drains and ventilation shafts, pipes and all appliances and fittings connected with drainage works constructed, erected or set up out of the cantonment fund in or upon premises not belonging to the Board whether–

(a) before or after the commencement of this Act; and

(b) for the use of the owner or occupier of such premises or not, shall unless the Board has otherwise determined, or does at any time otherwise determine, vest and be deemed always to have vested in the Board.

Construction of and control of drains and sewage collection and disposal works.

210. *(1)* All cantonment drains, all sewage collection and all works, materials and things appertaining thereto shall be under the control of the Board.

(2) The Chief Executive Officer shall maintain and keep in repair all cantonment drains and sewage collection and sewage disposal works when authorised by the Board.

(3) The Board shall construct as many new drains and sewage collection and sewage disposal works as may from time to time be necessary for effectual drainage and sewage collection.

(4) The Board shall ensure that the sewage effluents are treated in accordance with the norms laid down under the relevant laws relating to pollution before it is dispersed into a river, stream, lake or open land.

Certain matters not to be passed into cantonments drains.

211. No person shall throw, empty or turn into any cantonment drain or into any drain communicating with a cantonment drain–

(a) any matter likely to injure the drain or to interfere with the free flow of its contents, or to affect prejudicially the treatment and disposal of its contents; or

(b) any chemical, refuse or waste stream, or any liquid of a temperature higher than forty-five degrees centigrade, being refuse or stream which, or liquid which when so heated is, either alone or in combination with the contents of the drain be dangerous, or the cause of a nuisance, or prejudicial to health; or

(c) any dangerous petroleum.

Explanation.—In this section, the expression "dangerous petroleum" has the same meaning as in the Petroleum Act, 1934. 30 of 1934.

Application by owners and occupiers to drain into cantonment drains.

212. *(1)* Subject to such conditions as may be prescribed by bye-laws made in this behalf, the owner or occupier of any premises having a private drain, or the owner of any private drain within cantonment may apply to the Chief Executive Officer to have his drain made to communicate with the cantonment drains and thereby to discharge foul water and surface water from those premises or that private drain:

Provided that nothing in this sub-section shall entitle any person—

(a) to discharge directly or indirectly into any cantonment drain—

(i) any trade effluent from any trade premises except in accordance with bye-laws made in this behalf; or

(ii) any liquid or other matter the discharge of which into cantonment drains is prohibited by or under this Act or any other law; or

(b) where separate cantonment drains are provided for foul water and for surface water to discharge directly or indirectly—

(i) foul water into a drain provided for the surface water; or

(ii) except with the permission of the Chief Executive Officer, surface water into a drain provided for foul water; or

(c) to have his drains made to communicate directly with a storm-water overflow drain.

(2) Any person desirous of availing himself of the provisions of sub-section *(1)* shall give to the Chief Executive Officer notice of his proposals, and at any time within one month after receipt thereof, the Chief Executive Officer may by notice to him refuse to permit the communication to be made, if it appears to him that the mode of construction or condition of the drain is such that the making of the communication would be prejudicial to the drainage system, and for the purpose of examining the mode of construction and condition of the drain he may, if necessary, require it to be laid open for inspection.

(3) The Chief Executive Officer may, if he thinks fit, construct such parts of the work necessary for having a private drain made to communicate with a cantonment drain, as is in or under a public street and in such a case, the expenses incurred by the Chief Executive Officer shall be paid by the owner or occupier of the premises, or as the case may be, the owner of the private drain and shall be recoverable from the owner or occupier as an arrears of tax under this Act.

Drainage of undrained premises.

213. *(1)* Where any premises are in the opinion of the Chief Executive Officer, without sufficient means of effectual drainage and a cantonment drain or some place approved by the Chief Executive Officer for the discharge of filth and other polluted and obnoxious matter is situated at a distance of not exceeding thirty metres from any part of the said premises, he may, by written notice, require the owner of the said premises–

(a) to make a drain emptying into such cantonment drain or place;

(b) to provide and set up all such appliances and fittings as may appear to the Chief Executive Officer necessary for the purposes of gathering and receiving the filth and other polluted and obnoxious matter from, and conveying the same off, the said premises and of effectually flushing such drain and every fixture connected therewith;

(c) to remove any existing drain or other appliance or thing used or intended to be used for drainage which is injurious to health;

(d) to provide a closed drain in substitution of an open drain or to provide such other appliance or thing either newly or in substitution of any existing appliance or thing or to provide both a close drain and such other appliance or thing in substitution of the existing open drain and other appliance or thing, which is or is likely to be injurious to health;

(e) to provide and set up all such appliances and fitting as may appear to the Chief Executive Officer to be necessary for the purpose of gathering and receiving the waste water from floors and galleries of buildings when they are washed, and conveying the same through spouts, by down-take pipes so as to prevent such waste water from discharging directly on streets or inside any lower portion of the premises;

(f) to carry out any work to improve or re-model an existing drain which is inadequate, insufficient or faulty.

(2) Where in any case not provided for in sub-section *(1)* any premises are, in the opinion of the Chief Executive Officer, without sufficient means of effectual drainage, he may, by written notice, require the owner of the premises—

(a) to construct a drain up to a point to be prescribed in such notice but not at a distance or more than thirty meters from any part of the premises; or

(b) to construct a closed cesspool or soakage pit and drain or drains emptying into such cesspool or soakage pit.

(3) Any requisition for the construction of any drain under sub-section *(2)* may contain any of the details specified in sub-section *(1)*.

New premises not to be erected without drains.

214. *(1)* It shall not be lawful to erect or to re-erect any premises in a cantonment or to occupy any such premises unless—

(a) a drain be constructed of such size, materials and description, at such level and with such fall as shall appear to the Chief Executive Officer to be necessary for the effectual drainage of such premises;

(b) there have been provided and set up on such premises such appliances and fittings as may appear to the Chief Executive Officer to be necessary for the purposes of gathering or receiving the filth and other polluted and obnoxious matter from, and conveying the same off, the said premises and of effectually flushing the drain of the said premises and every fixture connected therewith.

(2) The drain so constructed shall empty into a cantonment drain situated at a distance of not exceeding thirty meters from the premises; but if no cantonment drain is situated within that distance then such drain shall empty into a cesspool situated within that distance to be specified by the Chief Executive Officer for the purpose.

Power to drain group or block of premises by combined operations.

215. *(1)* If it appears to the Chief Executive Officer that any group or block of premises may be drained more economically or advantageously in combination than separately, and a cantonment drain of sufficient size already exists or is about to be constructed within thirty metres of any part of that group or block of premises, the Chief Executive Officer may cause that group or block of premises to be drained by a combined operation.

(2) The expenses incurred in carrying out any work under sub-section *(1)* in respect of any group or block of premises shall be paid by the owners of such premises in such proportions as the Chief Executive Officer may determine and shall be recoverable from them as an arrears of tax under this Act.

(3) Not less than fifteen days before any such work is commenced, the Chief Executive Officer shall give to each such owner—

(a) written notice of the nature of the proposed work; and

(b) an estimate of the expenses to be incurred in respect thereof and of the proportion of such expenses payable by him.

(4) The Chief Executive Officer may require the owners of such groups or block or premises to maintain the work executed under this section.

Power to close or limit the use of private drains in certain cases.

216. Where a drain connecting any premises with a cantonment drain is sufficient for the effectual drainage of such premises and is otherwise unobjectionable but is not in the opinion of the Chief Executive Officer, adapted to the general system of drainage in the cantonment, he may, by written notice addressed to the owner of the premises, direct—

(a) that such drain be closed, discontinued or destroyed and that any work necessary for that purpose be done; or

(b) that such drain shall, from such date as may be specified in the notice in this behalf, be used for filth and polluted water only or for rain water and unpolluted sub-soil water only:

Provided that–

(i) no drain may be closed, discontinued or destroyed by the Chief Executive Officer under clause *(a)* except on condition of his providing another drain equally effectual for the drainage of the premises and communicating with any cantonment drain which he thinks fit; and

(ii) the expenses of the construction of any drain so provided by the Board and of any work done under clause *(a)* may be paid out of the cantonment fund.

Use of drain by a person other than the owner.

217. *(1)* Where the Chief Executive Officer either on receipt of an application from the owner of any premises or otherwise is of the opinion that the only, or the most convenient means of effectual drainage of the premises into a cantonment drain is through a drain belonging to another person, the Chief Executive Officer may by notice in writing require the owner of such a drain to show cause within a period specified in the notice as to why an order under this section should not be made.

(2) Where no cause is shown within the specified period or the cause shown appears to the Chief Executive Officer invalid or insufficient, the Chief Executive Officer may by order in writing either authorise the owner of the premises to use the drain or declare him to be a joint owner thereof.

(3) An order made under sub-section *(2)* may contain directions as to–

(a) the payment of rent or compensation by the owner of the premises;

(b) the construction of a drain for the premises for the purpose of connecting it with the aforesaid drain;

(c) the entry upon the land in which the aforesaid drain is situate with assistants and workmen at all reasonable hours;

(d) the respective responsibilities of the parties for maintaining, repairing, flushing, cleaning and emptying the aforesaid drain.

Sewage and rain water drains to be distinct.

218. Wherever it is provided in this Chapter that steps shall or may be taken for the effectual drainage of any premises, it shall be competent to the Chief Executive Officer to require that there shall be one drain for filth and polluted water and an entirely distinct drain for rain water and unpolluted sub-soil water or both rain water and unpolluted sub-soil water, each emptying into separate cantonment drains or other suitable places.

Power to require owner to carry out certain works for satisfactory drainage.

219. For the purpose of efficient drainage of any premises, the Chief Executive Officer may, by notice in writing,–

(a) require any courtyard, alley or passage between two or more buildings to be paved by the owner or owners of such buildings with such materials and in such manner as may be approved by the Chief Executive Officer; and

(b) require such paving to be kept in proper repair.

Appointment of places for the emptying of drains and collection of sewage.

220. The Chief Executive Officer may cause any or all of the cantonment drains to empty into, and all sewage to be collected of at, such place or places as he considers suitable:

Provided that no place which has not been before the commencement of this Act used for any of the purposes specified in this section shall, after such commencement be used therefor without the approval of the Board:

Provided further that on and after such date as may be appointed by the Central Government in this behalf no sewage shall be discharged into any water course until it has been so treated as not to affect prejudicially the purity and quality of the water into which it is discharged.

Miscellaneous

Connection with water works and drains not to be made without permission.

221. Without the written permission of the Chief Executive Officer, no person shall, for any purpose whatsoever, at any time make or cause to be made any connection or communicate with any drain referred to in section 210 or any water works, constructed or maintained by, or vested in, the Board.

Buildings, railways and private streets not to be erected or constructed over drains or water works without permission.

222. *(1)(a)* No railway works shall be constructed on any cantonment drain or any water works constructed or maintained by, or vested in the Board, without the approval of the Central Government.

(b) If any railway works are constructed on any drains or water works as aforesaid without the written permission of the Central Government, the Chief Executive Officer may remove or otherwise deal with the same as he thinks fit.

(2)(a) No private street shall be constructed and no building, wall, fence or other structure shall be erected on any cantonment drain or on any water works constructed or maintained by, or vested in, the Board without the approval of the Board.

(b) If any private street is constructed or any building, wall, fence or structure erected on any drain or water works as aforesaid without the written permission of the Board, the Chief Executive Officer may remove or otherwise deal with the same as he may think fit.

(3) The expenses incurred by the Chief Executive Officer in doing so shall be paid by the owner of the private street or of the building, fence wall or other structure or, as the case may be, by the railway administration or the person offending and shall be recoverable as an arrears of tax under this Act.

Rights of user of property for aqueducts, lines, etc.

223. *(1)* The Chief Executive Officer may place and maintain aqueducts, conduits and lines of mains or pipes or drains over, under, along or across any immovable property whether within or without the local limits of the cantonment without acquiring the same, and may at any time for the purpose of examining, repairing, altering or removing any aqueducts, conduits or lines of mains or pipes or drains, enter on any property over, under, along or across which the aqueducts, conduits or lines of mains or pipes, or drains have been placed:

Provided that the Board shall not acquire any right other than a right of user in the property over, under, along or across which any aqueduct, conduit or line of mains or pipes, or drain is placed.

(2) The power conferred under sub-section *(1)* shall not be exercisable in respect of any property vested in the Union or under the control or management of the Central Government or railway administration or vested in any local authority save with the permission of the Central Government or railway administration or the local authority, as the case may be, and in accordance with any bye-laws made in this behalf:

Provided that the Chief Executive Officer may, without such permission, repair, renew, or amend any existing works of which the character or position is not to be altered if such repair, renewal or amendment is urgently necessary in order to maintain without interruption the supply of water, drainage or collection of sewage or is such that delay would be dangerous to health, human life or property.

(3) In exercise of the powers conferred upon him by this section, the Chief Executive Officer shall cause as little damage and inconvenience as may be possible, and shall make full compensation for any damage or inconvenience caused by him.

Power of owner of premises to place pipes and drains through land belonging to other persons.

224. *(1)* If it appears to the Chief Executive Officer that the only or most convenient means of water supply to, and drainage of, any premises is by placing or carrying any pipe or drains over, under, along or across the immovable property of another person, the Chief Executive Officer may, by order in writing, authorise the owner of the premises to place or carry such pipe or drain over, under, along or across such immovable property:

Provided that before making any such order the Chief Executive Officer shall give to the owner of the immovable property a reasonable opportunity of showing cause within such time as may be prescribed by bye-laws made in this behalf as to why the order should not be made:

Provided further that the owner of the premises shall not acquire any right other than a right of user in the property over, under, along or across which any such pipe or drain is placed or carried.

(2) Upon the making of an order, under sub-section *(1)*, the owner of the premises may, after giving reasonable notice of his intention so to do, enter upon the immovable property with assistants and workmen at any time between sunrise and sunset for the purpose of placing a pipe or drain over, under, along or across such immovable property or for the purpose of repairing the same.

(3) In placing or carrying a pipe or drain under this section, as little damage as possible shall be done to the immovable property and the owner of the premises shall—

(a) cause the pipe or drain to be placed or carried with the least practicable delay;

(b) fill in, re-instate and make good at his own cost and with the least practicable delay, any land opened, broken up or removed for the purpose of placing or carrying such pipe or drain; and

(c) pay compensation to the owner of the immovable property and to any other person who sustains damage by reason of the placing or carrying of such pipe or drain.

(4) If the owner of the immovable property, over, under, along or across which a pipe or drain has been placed or carried under this section whilst such immovable property was not built upon, desires to erect any building on such property, the Chief Executive Officer, shall, by notice in writing, require the owner of the premises to close, remove or divert the pipe or drain in such manner as shall be approved by him and to fill in, re-instate and make good the immovable property as if the pipe or drain had not been placed or carried over, under, along or across the same:

Provided that no such requisition shall be made unless in the opinion of the Chief Executive Officer it is necessary or expedient for the construction of proposed building or the safe enjoyment thereof that the pipe or drain should be closed, removed or diverted.

Power to require railway level, etc., to be raised or lowered.

225. If the Board places or carries any pipe or drain or does any other work connected with the water supply or drainage across any railway line, it may, with the sanction of the Central Government and at the cost of the cantonment fund, require the railway administration to raise or lower the level thereof.

Power to execute work after giving notice to the person liable.

226. *(1)* When under the provisions of this Chapter, any person may be required or is liable to execute any work, the Chief Executive Officer may, in accordance with the provisions of this Act and of any bye-laws made in this behalf, cause such work to be executed after giving such person an opportunity of executing the same within such time as may be specified by him for this purpose.

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(2) The expenses incurred or likely to be incurred by the Chief Executive Officer in the execution of any such work shall be payable by the said person and the expenses incurred by the Chief Executive Officer in connection with the maintenance of such work or the enjoyment of amenities and conveniences rendered possible by such work shall be payable by the person or persons enjoying such amenities and conveniences.

(3) The expenses referred to in sub-section *(2)* shall be recoverable from the person or persons liable therefor as an arrears of tax under this Act.

Power to affix shafts, etc., for ventilation of drain or cess-pool.

227. For the purpose of ventilating any drain or cesspool, whether vested in the Board or not, the Chief Executive Officer may, in accordance with bye-laws made in this behalf, erect upon any premises or affix to the outside of any building or to any tree any such shaft or pipe as may appear to him to be necessary.

Power to examine and test drains, etc., believed to be defective.

228. *(1)* Where it appears to the Chief Executive Officer that there are reasonable grounds for believing that a private drain or cesspool is in such condition as to be prejudicial to health or a nuisance or that a private drain communicating directly or indirectly with a cantonment drain is so defective as to admit sub-soil water, he may examine its condition, and for that purpose may apply any test, other than a test by water under pressure, and if he deems it necessary, open the ground.

(2) If on examination the drain or cesspool is found to be in proper condition, the Chief Executive Officer shall, as soon as possible, re-instate any ground which has been opened by him and make good any damage done by him.

Bulk delivery of sewage by the Board.

229. *(1)* The Board shall deliver in bulk all the sewage to, the authority prescribed by the Central Government or the State Government, subject to such charges for the delivery of sewage of the area of cantonment as may be determined by means of an agreement entered into between that other authority and the Board.

(2) The agreement mentioned in sub-section *(1)* shall provide also for a stipulation therein that in case of any dispute about the payments to be made to that other authority by the Board, the matter shall be referred to the Central Government whose decision thereon shall be final and binding on both parties.

Employment of Government agencies for repair, etc.

230. The Central Government may, for reason to be recorded, direct that any specified work, repair, renewal or replacement which is to be undertaken by or for the Board under this Chapter, shall be carried out on behalf of the Board by the Central Government and the Board shall pay the charges therefor at the rates and subject to the terms for the time being applicable in the case of works constructed by that Government on behalf of a local authority.

Works to be done by licensed plumber.

231. *(1)* No person other than a licensed plumber shall execute any work described in this Chapter and no person shall permit any such work to be executed except by a licensed plumber:

Provided that if, in the opinion of the Chief Executive Officer, the work is of a trivial nature, he may grant permission in writing for the execution of such work by a person other than a licensed plumber.

(2) Every person who employs a licensed plumber to execute any work shall, when so required, furnish to the Chief Executive Officer the name of such plumber.

(3) When any work is executed except in accordance with the provisions of sub-section *(1)*, such work shall be liable to be dismantled at the discretion of the Chief Executive Officer without prejudice to the right of the Board to prosecute under this Act the person at whose instance such work has been executed.

(4) The Board may make bye-laws for the guidance of licensed plumbers and a copy of all such bye-laws shall be attached to every licence granted to a plumber by the Board.

(5) The Board may, from time to time, prescribe the charges to be paid to licensed plumber for any work done by them under or for any of the purposes of this Chapter.

(6) No licensed plumber shall, for any work referred to in sub-section *(5)*, demand or receive more than the charges prescribed therefor, under that sub-section.

(7) The Board shall make bye-laws providing for—

(a) the exercise of adequate control on all licensed plumbers;

(b) the inspection of all works carried out by them; and

(c) the hearing and disposal of complaints made by the owners or occupiers of premises with regard to the quality of work done, material used, delay in execution of work, and the charges made, by a licensed plumber.

(8) No licensed plumber shall contravene any of the bye-laws made under this section or execute carelessly or negligently any work under this Act or make use of bad materials, appliances or fittings.

(9) If any licensed plumber contravenes sub-section *(8)*, his licence may be suspended or cancelled whether he is prosecuted under this Act or not.

Prohibition of certain acts.

232. *(1)* No person shall—

(a) wilfully obstruct any person acting under the authority of the Board, or the Chief Executive Officer, in setting out the lines of any works or pull up or remove any pillar, post or stake fixed in the ground for the purpose of setting out lines of such work, or deface or destroy any works made for the same purpose; or

(b) wilfully or negligently break, injure, turn on, open, close, shut off or otherwise interfere with any lock, cock, valve, pipe, meter or other work or apparatus belonging to the Board; or

(c) unlawfully obstruct the flow of or flush, draw off, or divert, or take water from any water work belonging to the Board; or

(d) unlawfully obstruct the flow of or flush, draw off, or divert, or take sewage from any sewage work belonging to the Board or break or damage any electrical transmission line maintained by the Board; or

(e) obstruct any officer or other employee of the Board in the discharge of his duties under this Chapter or refuse or wilfully neglect to furnish him with the means necessary for the making of any entry, inspection, examination or inquiry thereunder in relation to any water or sewage work; or

(f) bathe in, at or upon any water work or wash or throw or cause to enter therein any animal, or throw any rubbish, dirt or filth into any water work or wash or clean therein any cloth, wool or leather or the skin of any animal, or cause the water of any sink, or drain or any steam-engine or boiler or any polluted water to turn or be brought into any water work, or do any other act whereby the water in any water work is fouled or likely to be fouled.

(2) Nothing in clause *(b)* of sub-section *(1)* shall apply to a consumer closing the stopcock fixed on the service pipe supplying water to his premises so long as he has obtained the consent of any other consumer whose supply will be affected thereby.

CHAPTER X

TOWN PLANNING AND CONTROL OVER BUILDINGS, ETC.

Preparation of land use plan.

233. *(1)* On the commencement of this Act, the Chief Executive Officer shall with the approval of the Board, cause to be prepared a spatial plan for land use to be followed in the cantonment which shall include—

(a) earmarking of zones for residential, institutional, commercial and other activities; and

(b) improvement schemes for areas considered sub-standard on account of narrowness of streets, poor lighting, poor ventilation or irregular line of buildings in a street.

(2) The Board shall give publicity to the land use plan prepared under sub-section *(1)*, by publishing a gist of the plan in a local newspaper.

Sanction for building.

234. No person shall erect or re-erect a building on any land in a cantonment—

(a) in an area, other than the civil area, except with the previous sanction of the Board;

(b) in a civil area, except with the previous sanction of the Chief Executive Officer,

nor otherwise than in accordance with the provisions of this Chapter and of the rules and bye-laws made under this Act relating to the erection and re-erection of buildings:

Provided that if an erected or re-erected building is meant for public purposes, then it shall be made accessible to and barrier free for the persons with disabilities.

Notice of new buildings.

235. *(1)* Whoever intends to erect or re-erect any building in a cantonment shall apply for sanction by giving notice in writing of his intention—

(a) where such erection or re-erection is in an area, other than the civil area, to the Board;

(b) where such erection or re-erection is in a civil area, to the Chief Executive Officer.

(2) For the purposes of this Act, a person shall be deemed to erect or re-erect a building who—

(a) makes any material alteration or enlargement of any building; or

(b) converts into a place for human habitation any building not originally constructed for human habitation; or

(c) converts into more than one place for human habitation a building originally constructed as one such place; or

(d) converts two or more places of human habitation into a greater number of such places; or

(e) converts into a stable, cattle-shed or cow-house any building originally constructed for human habitation; or

(f) converts into a dispensary, stall, shops, warehouse, godown, factory or garage any building originally constructed for human habitation; or

(g) makes any alteration which there is reason to believe is likely to affect prejudicially the stability or safety of any building or the condition of any building in respect of drainage, sanitation or hygiene; or

(h) makes any alteration to any building which increases or diminishes the height of, or area covered by, or the cubic capacity of, the building, or which reduces the cubic capacity of any room in the building below the minimum prescribed by any bye-law made under this Act.

Conditions of valid notice.

236. *(1)* A person giving the notice required by section 235 shall specify the purpose for which it is intended to use the building to which such notice relates.

(2) No notice shall be valid until the information required under the sub-section *(1)* and any further information and plans and undertakings which may be required under bye-laws made under this Act have been furnished to the satisfaction of the Chief Executive Officer, along with the notice.

237. The powers, duties and functions of the Board under section 238, sub-section *(1)* of section 241, section 243, section 245 and section 248 excluding the provisions to sub-section *(1)* and the provisio to sub-section *(2)* of the said section 248 shall be exercised or discharged in a civil area by the Chief Executive Officer.

Powers of Board under certain sections exercisable by Chief Executive Officer.

238. *(1)* The Board may either refuse to sanction the erection or re-erection, as the case may be, of the building, or may sanction it either absolutely or subject to such directions as it thinks fit to make in writing in respect of all or any of the following matters, namely:—

Power of Board to sanction or refuse.

(a) the free passage or way to be left in front of the building;

(b) the space to be left about the building to secure free circulation of air and facilitate scavenging and the prevention of fire;

(c) the ventilation of the building, the minimum cubic area of the rooms and the number of height of the storeys of which the building may consist;

(d) the provison and position of drains, latrines, urinals, cesspools or other receptacles for filth;

(e) the level and width of the foundation, the level of the lowest floor and the stability of the structure;

(f) the line of frontage with neighbouring buildings if the building abuts on a street;

(*g*) the means to be provided for egress from the building in case of fire;

(*h*) the materials and method of construction to be used for external and party walls for rooms, floors, fire-places and chimneys;

(*i*) the height and slope of the roof above the uppermost floor upon which human beings are to live or cooking operations are to be carried on; and

(*j*) any other matter affecting the ventilation and sanitation of the buildings, and the person erecting or re-erecting the building shall obey all such written directions in every particular.

(2) The Board may refuse to sanction the erection or re-erection of any building on any grounds sufficient in the opinion of the Board affecting the particular building:

Provided that the Board shall refuse to accord sanction the erection or re-erection of any building if such erection or re-erection is not in conformity with any general scheme sanctioned under section 240.

(3) The Board, before sanctioning the erection or re-erection of a building on land which is under the management of the Defence Estates Officer, shall refer the application to the Defence Estates Officer for ascertaining whether there is any objection on the part of the Government to such erection or re-erection; and the Defence Estates Officer shall return the application together with his report thereon to the Board within thirty days after it has been received by him.

(4) The Board may refuse to sanction the erection or re-erection of any building—

(a) when the land on which it is proposed to erect or re-erect the building is held on a lease from the Government, if the erection or re-erection constitutes a breach of the terms of the lease; or

(b) when the land on which it is proposed to erect or re-erect the building is entrusted to the management of the Board by the Government if the erection or re-erection constitutes a breach of the terms of the entrustment of management or

contravenes any of the instructions issued by the Government regarding the management of the land by the Board; or

(c) when the land on which it is proposed to erect or re-erect the building is not held on a lease from the Government, if the right to build on such land is in dispute between the person applying for sanction and the Government.

(5) If the Board decides to refuse to sanction the erection or re-erection of the building, it shall communicate in writing the reasons for such refusal to the person by whom notice was given.

(6) Where the Board neglects or omits, for one month after the receipt of a valid notice, to make and to deliver to the person who has given the notice any order of any nature specified in this section, and such person thereafter by a written communication sent by registered post to the Board calls the attention of the Board to the neglect or omission, then, if such neglect or omission continues for a further period of fifteen days from the date of such communication the Board shall be deemed to have given sanction to the erection or re-erection, as the case may be:

Provided that, in any case to which the provisions of sub-section *(3)* apply, the period of one month herein specified shall be reckoned from the date on which the Board has received the report referred to in that sub-section.

Order of stoppage of building or works in certain cases and disposal of things removed.

239. *(1)* Where the erection of any building or execution of any work has been commenced or is being carried on without or contrary to the sanction, but has not been completed, referred to in section 238 or in contravention of any condition subject to which such sanction has been accorded or in contravention of any provision of this Act or bye-laws made thereunder, the Chief Executive Officer may in addition to any other action that may be taken under this Act, by order require the person at whose instance the building or the work has been commenced or is being carried on to stop the same forthwith.

(2) If an order made by the Chief Executive Officer under sub-section *(1)* directing any person to stop the erection of any building or execution of any work is not complied with, the Chief Executive Officer may require any police officer to remove such person and all his assistants and workmen from the premises or to seize any construction material, tool, machinery, scaffolding or other things used in the erection of any building or execution of any work within such time as may be specified in the requisition and such police officer shall comply with the requisition accordingly.

(3) Any of the things caused or to be seized by the Chief Executive Officer under sub-section *(2)* shall be disposed of by him in a manner specified in sub-sections *(6)* and *(7)*.

(4) After the requisition under sub-section *(2)* has been complied with the Chief Executive Officer may, if he thinks fit, depute by a written order a police officer or an officer or an employee of the Board to watch the premises in order to ensure that the erection of the building or the execution of work is not continued.

(5) Where a police officer or an officer or an employee of the Board has been deputed under sub-section *(4)* to watch the premises, the cost of such deputation shall be paid by the person at whose instance such erection or execution is being continued or to whom notice under sub-section *(1)* was given and shall be recoverable from such person as an arrear of tax under this Act.

(6) Any of the things caused to be removed by the Chief Executive Officer under this section shall unless the owner thereof turns up to take back such things and pays to the Chief Executive Officer charges for removal and storage of such things be disposed of by the Chief Executive Officer by a public auction or in such other manner as he thinks fit:

Provided that such things shall only be disposed of by the Chief Executive Officer on the expiry of fifteen days in case of non perishable things and twenty-four hours in case of perishable things from the date and time of seizure.

(7) The charges for removal and storage and sale of things sold under sub-section *(6)* shall be paid out of the proceeds of the sale thereof and the balance, if any, shall be paid to the owner of the things sold on a claim being made therefor within a period of one year from the date of sale and if no such claim is made within the said period, shall be credited to the cantonment fund.

240. The General Officer Commanding-in-Chief the Command in Consultation with the Principal Director may sanction a general scheme of erection or re-erection of buildings within such limits as may be specified in the sanction for the prevention of overcrowding or for purpose of sanitation, or in the interest of persons residing within those limits or for any other purpose, and may, in pursuance of such scheme, impose restrictions on the erection or re-erection of buildings within those limits: Power to sanction general scheme for prevention of overcrowding, etc.

Provided that no such scheme shall be sanctioned by the General Officer Commanding in Chief, the Command unless an opportunity has been given by a public notice to be published locally by the Chief Executive Officer requiring persons affected or likely to be affected by the proposed scheme, to file their objections or suggestions in the manner specified in the notice, within a period of thirty days of the publication of such notice, and the Chief Executive Officer shall after considering such objections and suggestions, if any, forward the same along with his recommendations to the Principal Director.

241. *(1)* No compensation shall be claimable by any person for any damage or loss which he may sustain in consequence of the refusal of the Board of sanction to the erection of any building or in respect of any direction issued by it under sub-section *(1)* of section 238. Compensation.

(2) The Board shall make compensation to the owner of any building for any actual damage or loss sustained by him in consequence of the prohibition of the re-erection of any building or of its requiring any land belonging to him to be added to the street:

Provided that the Board shall not be liable to make any compensation in respect of the prohibition of the re-erection of any building which for a period of three years or more immediately preceding such refusal has not been in existence or has been unfit for human habitation.

242. Every person to whom sanction for the erection or re-erection of any building in any area in a cantonment has been given under section 237 or section 238 by the Chief Executive Officer or, as the case may be, by the Board shall, within thirty days after completion of the erection or re-erection of the building give a notice of completion in writing to the Chief Executive Officer or the Board, as the case may be, and the Chief Executive Officer or the Board shall on receipt of such notice cause the building to be inspected in order to ensure that the building has been completed in accordance with the sanction given by the Chief Executive Officer or the Board, as the case may be. Completion notice.

243. Every sanction for the erection or re-erection of a building given or deemed to have been given as hereinbefore provided shall be available for two years from the date on which it is given, and, if the building so sanctioned is not begun by the person who has obtained the sanction or some one lawfully claiming under him within that period, it shall not thereafter be begun unless the Chief Executive Officer, on application made therefor has allowed an extension of that period. Lapse of sanction.

244. *(1)* No person shall, without the written permission of the Board or otherwise than in conformity with the conditions, if any, of such permission,— Restrictions on use of buildings.

(a) use or permit to be used for human habitation any part of a building not originally erected or authorised to be used for that purpose or not used for that purpose before any alteration has been made therein by any work executed in accordance with the provisions of this Act and the bye-laws made thereunder;

(b) change or allow the change of the use of any land or building;

(c) convert or allow the conversion of one kind of tenement into another kind:

(2) Any person who contravenes the provisions of sub-section *(1)* shall on conviction be punishable with a fine which may extend to one lakh repees and in the case of continuing contravention with an additional fine of rupees ten thousand for every day during which the contravention continues after the date it comes to the notice.

Period for completion of building.

245. A Board, when sanctioning the erection or re-erection of a building as hereinbefore provided, shall specify a reasonable period after the work has commenced within which the erection or re-erection is to be completed, and, if the erection or re-erection is not completed within the period so fixed, it shall not be continued thereafter without fresh sanction obtained in the manner hereinbefore provided, unless the Board on application made therefor has allowed an extension of that period:

Provided that not more than two such extensions, each for not more than one year, shall be allowed in any case.

Completion certificate.

246. The Chief Executive Officer shall on receipt of the notice under section 242 of this Act cause the building to be inspected either by himself or by the officer authorised by him in his behalf in order to ensure that the building has been completed in accordance with the sanction given and issue completion certificate provided that the person seeking the completion certificate shall assist the Chief Executive Officer in inspection of such building:

Provided that the building shall not be occupied for habitation unless a certificate is issued by the Chief Executive Officer or an officer authorised by him in this behalf:

Provided further that if the Chief Executive Officer fails within a period of thirty days after the receipt of the notice of completion, to communicate his refusal to issue such certificate, such certificate shall be deemed to have been granted.

Illegal erection and re-erection.

247. Whoever begins, continues or completes the erection or re-erection of a building—

(a) without having given a valid notice as required by sections 235 and 236, or before the building has been sanctioned or is deemed to have been sanctioned; or

(b) without complying with any direction made under sub-section *(1)* of section 238; or

(c) when sanction has been refused, or has ceased to be available or has been suspended by the General Officer Commanding-in-Chief, the Command, under clause *(b)* of sub-section *(1)* of section 58,

shall be punishable with fine which may extend to fifty thousand rupees and the cost of sealing the illegal construction and its demolition.

Power to stop erection or re-erection or to demolish.

248. *(1)* A Board may, at any time, by notice in writing, direct the owner, lessee or occupier of any land in the cantonment to stop the erection or re-erection of a building in any case in which the Board considers that such erection or re-erection is an offence under section 247 and may, in any such case or in any other case in which the Board considers that the erection or re-erection of a building is an offence under section 247, within twelve months of the completion of such erection or re-erection in like manner, direct the alteration or demolition, as it thinks necessary, of the building, or any part thereof, so erected or re-erected:

Provided that the Board may, instead of requiring the alteration or demolition of any such building or part thereof, accept by way of composition such sum as it thinks reasonable:

Provided further that the Board shall not, without the previous concurrence of the General Officer Commanding-in-Chief, the Command, accept any sum by way of composition

under the foregoing proviso in respect of any building on land which is not under the management of the Board.

(2) A Board shall by notice in writing direct the owner, lessee or occupier of any land in the cantonment to stop the erection or re-erection of a building in any case in which the order under section 238 sanctioning the erection or re-erection has been suspended by the General Officer Commanding-in-Chief, the Command, under clause *(b)* of sub-section *(1)* of section 58, and shall in any such case in like manner direct the demolition or alteration, as the case may be, of the building or any part thereof so erected or re-erected where the General Officer Commanding-in-Chief, the Command, thereafter directs that the order of the Board sanctioning the erection or re-erection of the building shall not be carried into effect or shall be carried into effect with modifications specified by him:

Provided that the Board shall pay to the owner of the building compensation for any loss actually incurred by him in consequence of the demolition or alteration of any building which has been erected or re-erected prior to the date on which the order of the General Officer Commanding-in-Chief, the Command, has been communicated to him.

Power to seal unauthorised constructions.

249. *(1)* It shall be lawful for the Chief Executive Officer, at any time, before or after making an order of demolition under section 248 or of the stoppage of erection of any building, or execution of any work, to make an order directing the sealing of such erection or work or of the premises in which such erection or work is being carried on or has been completed at the cost of the offender in such manner as may be prescribed by rules for the purpose of carrying out the provisions of this Act or for preventing any dispute as to the nature and extent of such erection or work.

(2) Where any erection or work or any premises in which any erection or work is being carried on, has or, has been sealed, the Chief Executive Officer may, for the purpose of demolishing such erection or work in accordance with the provisions of this Act, order such seal to be removed.

(3) No person shall remove such seal except—

(a) under an order made by the Chief Executive Officer under sub-section *(2)*;

or

(b) under an order of an appellate authority in an appeal made under this Act.

(4) Any person who contravenes the provisions contained in sub-section *(3)* shall be punishable with imprisonment which may extend to six months or with fine which may extend to twenty thousand rupees, or with both.

Courts not to entertain proceedings in certain cases.

250. *(1)* After the commencement of this Act, no court shall entertain any suit, application or other proceedings in respect of any order or notice unless an appeal under section 340 is preferred and the same is disposed of by the appellate authority under sub-section *(3)* of section 343 of this Act.

(2) Notwithstanding anything contained in sub-section *(1)*, every suit, application or other proceedings pending in any court immediately before the commencement of this Act shall continue to be dealt with and disposed of by that court as if the said section has not been brought into force.

Power to make bye-laws.

251. A Board may make bye-laws prescribing—

(a) the manner in which notice of the intention to erect or re-erect a building in the cantonment shall be given to the Board or, as the case may be, the Chief Executive Officer and the information and plans to be furnished with the notice;

(b) the manner in which and the form in which a notice of completion of erection or re-erection of any building in the cantonment shall be given to the Board or, as the

case may be, the Chief Executive Officer and the information and plans to be furnished with the notice;

(c) the type or description of buildings which may or may not, and the purpose for which a building may or may not, be erected or re-erected in the cantonment or any part thereof;

(d) the minimum cubic capacity of any room or rooms in a building which is to be erected or re-erected;

(e) the fees payable on provision by the Board of plans or specifications of the type of buildings which may be erected in the cantonment or any part thereof;

(f) the circumstances in which mosque, temple or church or other sacred building may be erected or re-erected; and

(g) with reference to the erection or re-erection of buildings, or of any class of buildings, or any of the following matters, namely:—

(i) the line of frontage where the building abuts on a street;

(ii) the space to be left about the building to secure free circulation of air and facilities for scavenging and for the prevention of fire;

(iii) the materials and method of construction to be used for external and party walls, roofs and floors;

(iv) the position, the materials and the method of construction of stair-cases, fire places, chimneys, drains, latrines, privies, urinals and cess-pools;

(v) height and slope of the roof above the uppermost floor upon which human beings are to live or cooking operations are to be carried on;

(vi) the level and width of the foundation, the level of the lowest floor, the stability of the structure and the protection of building from dampness arising from sub-soil;

(vii) the number and height of the storeys of which the building may consist;

(viii) the means to be provided for egress from the building in case of fire;

(ix) the safeguarding of wells from pollution; or

(x) the materials and method of construction to be used for godowns intended for the storage of foodgrains in excess of eighteen quintals in order to render them rat proof.

Prohibition of structures or fixtures which cause obstruction in streets.

252. *(1)* No person shall, except with the permission of the Chief Executive Officer, erect or set up any wall, fence, nail, post, step, booth or other structure whether fixed or movable or whether of a permanent or temporary nature, or any fixture in or upon any street so as to form an obstruction to, or an encroachment upon, or a projection over, or to occupy any portion of such street, channel, drain, well or tank.

(2) The Chief Executive Officer may, by notice in writing, require the owner or occupier of any such building to alter or remove any such projection or encroachment as aforesaid:

Provided that, in the case of any projection or encroachment lawfully in existence at the commencement of this Act, the Chief Executive Officer shall make compensation for any damage caused by the removal or alteration.

(3) The Chief Executive Officer may, by order in writing, give permission to the

owners or occupiers of buildings in any particular street to put up open verandahs, balconies or rooms projecting from any upper storey thereof to an extent beyond the line of the plinth or basement wall at such height from the level ground or street as may be specified in the order.

Unauthorised buildings over drains, etc.

253. The Chief Executive Officer may, by notice in writing require any person who has, without his permission in writing, newly erected or re-erected any structure over any public sewer, drain, culvert, water-course or water-pipe in the cantonment to pull down or otherwise deal with the same as he thinks fit.

Drainage and sewer connections.

254. *(1)* The Chief Executive Officer may, by notice in writing, require the owner or lessee of any building or land in any street, at his own expense and in such manner as he thinks fit, to put up and keep in good condition, proper troughs and pipes for receiving and carrying rain water from the building or land and for discharging the same or to establish and maintain any other connection or communication between such buildings or land and a drain or sewer or a water harvesting structure or facility.

(2) For the purpose of efficiently draining any building or land in the cantonment, the Chief Executive Officer may, by notice in writing, require the owner or lessee of the building or land—

(a) to pave, with such materials and in such manner as he thinks fit, any courtyard, alley or passage between two or more buildings; or

(b) to keep any such paving in proper repair; or

(c) to make such arrangements as may be specified by the Board under bye-laws to deliver rain water from roof top to the water harvesting facility created or arranged by the Board.

Power to attach brackets for lamps and other accessories.

255. The Chief Executive Officer may attach to the outside of any building, or to any tree in the cantonment, brackets for lamps or any accessories for non-conventional sources of energy in such manner as not to occasion injury thereto or inconvenience.

Maintenance of Roads.

256. *(1)* All roads in the civil area of a cantonment shall be maintained by the Board.

(2) All roads outside the civil area as have been vested in the Board shall also be maintained by the Board.

Streets

Temporary occupation of street, land, etc.

257. *(1)* The Chief Executive Officer may, by order in writing, permit the temporary occupation of any street, or of any land vested in the Board, for the purpose of depositing any building materials or making any temporary excavation therein or erection thereon, subject to such conditions as the Board may prescribe for the safety or convenience of the public, and may charge a fee for such permission and may in his discretion withdraw such permission.

(2) Where any article or thing is placed on any street or land under the management of the Board or the Defence Estates Officer so as to form an obstruction thereto or any encroachment thereon, the Chief Executive Officer or, as the case may be, the Defence Estates Officer, may cause such article or thing to be removed and recover from the person who placed such article or thing the expenses incurred in that behalf in the same manner as moneys recoverable by the Board under section 324 and may also, if such person fails to offer satisfactory explanation, order the confiscation of such article or thing.

Closing and opening of streets.

258. *(1)* A Board may open any street for public use.

(2) A Board shall not permanently close any street without the prior permission of the General Officer Commanding in Chief, or the Principal Director:

Provided that no such street shall be closed for reasons other than the security reasons and without giving a public notice inviting objections and suggestions from the general public.

(3) The Chief Executive Officer may, by public notice, temporarily close any street or any part of a street for repair or for the purpose of carrying out any work connected with drainage, water-supply or lighting or any other work which he is by or under this Act required or permitted to carry out:

Provided that where, owing to any works or repairs or from any other cause, the condition of any street or of any water-works, drain, culvert or premises vested in the Board, is such as to be likely to cause danger to the public, the Board shall—

(a) take all reasonable means for the protection of the adjacent buildings and land and provide reasonable means of access thereto;

(b) cause sufficient barriers or fences to be erected for the security of life and property, and cause such barriers or fences to be sufficiently lighted from sunset to sunrise.

Names of streets and numbers of buildings.

259. *(1)* A Board may determine the name or number by which any area, street or public place in the cantonment shall be known and may cause name or number to be affixed on any building in the cantonment in such place as it thinks fit and may also cause a number to be affixed to any such building.

(2) Whoever destroys, pulls down, defaces or alters any such name or number or puts up any name or number differing from that put up by the order of the Board shall be punishable with fine which may extend to one thousand rupees.

(3) When a name or number has been affixed to any building under sub-section *(1)*, the owner of the building shall maintain the name or number in order, and shall replace it if removed or defaced, and if he fails to do so the Chief Executive Officer may by notice in writing require him to replace it.

Group Housing Schemes.

260. A Board, may in accordance with the bye-laws framed for the purpose, allow the Group Housing Schemes for construction of houses.

Boundary walls, hedges and fences.

261. *(1)* No boundary wall, hedge or fence of any material or description shall be erected in a cantonment without the permission in writing of the Chief Executive Officer.

(2) The Chief Executive Officer may, by notice in writing, require the owner or lessee of any land in the cantonment—

(a) to remove from the land any boundary wall, hedge or fence which is in his opinion unsuitable, unsightly or otherwise objectionable; or

(b) to construct on the land sufficient boundary walls, hedges or fences of such material, description or dimensions as may be specified in the notice; or

(c) to maintain the boundary walls, hedges or fences of such lands in good order:

Provided that in the case of any such boundary wall, hedge or fence which was erected with the consent or under the orders of the Chief Executive Officer or which was in existence at the commencement of this Act, the Board shall make compensation for any damage caused by the removal thereof.

(3) The Chief Executive Officer may, by notice in writing, require the owner, lessee or occupier of any such land to cut or trim any hedge on the land in such manner and within such time as may be specified in the notice.

262. *(1)* Where, in the opinion of a Board, the felling of any tree of mature growth standing in a private enclosure in the cantonment is necessary for any reason, the Board may, by notice in writing, require the owner, lessee or occupier of the land to fell the tree within such time as may be specified in the notice. Felling, lopping and trimming of trees.

(2) A Board may—

(a) cause to be lopped or trimmed any tree standing on land in the cantonment which belongs to the Government; or

(b) by public notice require all owners, lessees or occupiers of land in the cantonment, or by notice in writing require the owner, lessee or occupier of any such land, to lop or trim, in such manner as may be specified in the notice, all or any trees standing on such land or to remove any dead trees from such land.

263. Whoever, without the permission in writing of the Chief Executive Officer, digs up the surface of any open space in the cantonment, which is not private property, shall be punishable with fine which may extend to two thousand five hundred rupees and in the case of a continuing offence, with an additional fine which may extend to five hundred rupees for every day after the first during which the offence continues. Digging of public land.

264. *(1)* If, in the opinion of the Chief Executive Officer, the working of a quarry in the cantonment, or the removal of stone, earth or other material from the soil in any place in the cantonment, is dangerous to persons residing in or frequenting the neighbourhood or such quarry or place, or creates, or is likely to create, a nuisance, the Chief Executive Officer may, by notice in writing, prohibit the owner, lessee or occupier of such quarry or place or the person responsible for such working or removal, from continuing or permitting the working of such quarry or the moving of such material, or require him to take such steps in the matter as he may direct for the purpose of preventing danger or abating the nuisance arising or likely to arise therefrom. Improper use of land.

(2) If, in any case referred to in sub-section *(1)*, the Chief Executive Officer is of opinion that such a course is necessary in order to prevent imminent danger, he may, by order in writing, require a proper hoarding or fence to be put up for the protection of passers-by.

CHAPTER XI

MARKETS, SLAUGHTER-HOUSES, TRADES AND OCCUPATIONS

265. *(1)* A Board may provide and maintain, on the land under its control, public markets and public slaughter-houses, to such number as it thinks fit, together with stalls, shops, sheds, pens and other buildings or conveniences for the use of persons carrying on trade or business in or frequenting such markets or slaughter-houses, and may provide and maintain in any such market buildings, places, machines, weights, scales and measures for the weighment or measurement of goods sold therein. Public markets and slaughter-houses.

(2) When such market or slaughter-house is situated beyond cantonment limits, the Board shall have the same power for the inspection and proper regulation of the same as if it were situated within those limits.

(3) The Board may at any time, by public notice, close any public market or public slaughter-house or any part thereof.

(4) Nothing in this section shall be deemed to authorise the establishment of a public market or public slaughter-house within the limits of any area administered by any local authority other than the Board, without the permission of such local authority or otherwise than on such conditions as such local authority may approve.

266. *(1)* No person shall, without the general or special permission in writing of the Chief Executive Officer, sell or expose for sale any animal or article in any public market. Use of public market.

(2) Any person contravening the provisions of this section, and any animal or article exposed for sale by such person, may be summarily removed from the market by or under the orders of the Chief Executive Officer or any official of the Board authorised by him in this behalf.

Power to transfer by public auction, etc.

267. *(1)* The Board may transfer by public auction, for any period not exceeding five years at a time, the right to occupy or use any stall, shop, standing, shed or pen in a public market, or public slaughter-house or the right to expose goods for sale in a public market or the right to weigh or measure goods sold therein, or the right to slaughter animals in any public slaughter-house:

Provided that where the Board is of opinion that such transfer of the aforesaid rights by public auction is not considered desirable or expedient, it may, with the previous sanction of the General Officer Commanding-in-Chief, the Command or in his absence, the Principal Director,—

(a) either levy such stallages, rents or fees as it thinks fit; or

(b) farm the stallages, rents and fees leviable under clause *(a)* for any period not exceeding one year at a time:

Provided further that the enjoyment of any such aforesaid right by any person for any length of time shall never be deemed to create or confer any tenancy right in such stall, shop, standing, shed, pen, public market or public slaughter-house.

(2) The Board may transfer by public auction or otherwise any immovable property other than in a public market or a public slaughter house if such property is capable of being put to remunerative use for such period and on such terms and conditions as may be approved by the General Officer Commanding-in-Chief, the Command or in his absence, the Principal Director.

Stallages, rents, etc., to be published.

268. A copy of the table of stallages, rents and fees, if any, leviable in any public market or public slaughter-house, and of the bye-laws made under this Act for the purpose of regulating the use of such market or slaughter-house, printed in English language or in such other language or languages as the Board may direct, shall be affixed in some conspicuous place in the market or slaughter-house.

Private markets and slaughter-houses.

269. *(1)* No place in a cantonment other than a public market shall be used as a market, and no place in a cantonment other than a public slaughter-house shall be used as a slaughter-house, unless such place has been licensed as a market or slaughter-house, as the case may be, by the Board:

Provided that nothing in this sub-section shall apply in the case of a slaughter-house established and maintained by the Central Government or the State Government, as the case may be.

(2) Nothing in sub-section *(1)* shall be deemed—

(a) to restrict the slaughter of any animal in any place on the occasion of any festival or ceremony, subject to such conditions as to prior or subsequent notice as the Chief Executive Officer with the previous sanction of the District Magistrate may, by public or special notice, impose in this behalf; or

(b) to prevent the Chief Executive Officer, with the sanction of the Board, from setting apart places for the slaughter of animals in accordance with religious custom.

(3) Whoever omits to comply with any condition imposed by the Chief Executive Officer under clause *(a)* of sub-section *(2)* shall be punishable with fine which may extend to five thousand rupees and, in the case of continuing offence, with an additional fine which may extend to one thousand rupees for every day after the first during which the offence is continued.

270. *(1)* A Board may charge such fees as it thinks fit to impose for the grant of a licence to any person to open a private market or private slaughter-house in the cantonment, and may grant such licence subject to such conditions, consistent with this Act and any bye-laws made thereunder, as it thinks fit to impose.

Conditions of grant of licence for private market or slaughter-house.

(2) The Board may refuse to grant any such licence without giving reasons for such refusal.

271. *(1)* Any person who keeps open for public use any market or slaughter-house in respect of which a licence is required by or under this Act, without obtaining licence therefor, or while the licence therefor is suspended, or after the same has been cancelled, shall be punishable with fine which may extend to five thousand rupees and, in the case of a continuing offence, with an additional fine which may extend to five hundred rupees for every day after the first during which the offence is continued.

Penalty for keeping market or slaughter-house open without licence, etc.

(2) When a licence to open a private market or private slaughter-house is granted or refused or is suspended or cancelled, the Board shall cause a notice of the grant, refusal, suspension or cancellation to be pasted in English or such language or languages as it thinks necessary in some conspicuous place by or near the entrance to the place to which the notice relates.

272. Whoever, knowing that any market or slaughter-house has been opened to the public without a licence having been obtained therefor when such licence is required by or under this Act, or that the licence granted therefor is for the time being suspended or that it has been cancelled, sells or exposes for sale any article in such market, or slaughters any animal in such slaughter-house, shall be punishable with fine which may extend to five thousand rupees and, in the case of a continuing offence, with an additional fine which may extend to five hundred rupees for every day after the first during which the offence is continued.

Penalty for using unlicensed market or slaughter-house.

273. *(1)* Where, in the opinion of the Chief Executive Officer, it is necessary on sanitary grounds so to do, he may, by public notice, prohibit for such period not exceeding one month, as may be specified in the notice, or for such further period not exceeding one month, as he may specify by a like notice, the use of any private slaughter-house specified in the notice, or the slaughter therein of any animal of any description so specified.

Prohibition and restriction of use of slaughter-house.

(2) A copy of every notice issued under sub-section *(1)* shall be conspicuously pasted in the slaughter-house to which it relates.

274. *(1)* Any official of a Board, authorised by order in writing in this behalf by the Chief Executive Officer or the Health Officer, may, if he has reason to believe that any animal has been, is being, or is about to be slaughtered in any place in contravention of the provisions of this Chapter, enter into and inspect any such place at any time, whether by day or by night.

Power to inspect slaughter-houses.

(2) Every such order shall specify the place to be entered and the locality in which the same is situated and the period, which shall not exceed seven days for which the order is to remain in force.

275. A Board may, by order, regulate all or any of the following matters, namely :—

Power to regulate certain activities.

(a) the days on, and the hours during, which any private market or private slaughter-house may be kept open for use;

(b) the regulation of the design, ventilation and drainage of such market or slaughter-houses, and the material to be used in the construction thereof;

(c) the keeping of such markets and slaughter-houses and lands and buildings appertaining thereto in a clean and sanitary condition, the removal of filth and refuse therefrom, and the supply therein of pure water and of a sufficient number of latrines and urinals for the use of persons using or frequenting the same;

(d) the manner in which animals shall be stalled at a slaughter-house;

(e) the manner in which animals may be slaughtered;

(f) the disposal or destruction of animals offered for slaughter which are, from disease or any other cause, unfit for human consumption;

(g) the destruction of carcasses which from disease or any other cause are found after slaughter to be unfit for human consumption; and

(h) any other matter with respect to the regulation of such markets and slaughter-houses.

Trades and occupations

Provision of washing places

276. *(1)* A Board may provide suitable places for the exercise by washermen of their calling, and may require payment of such fees for the use thereof as it thinks fit.

(2) Where the Board has provided such places as aforesaid it may, by public notice, prohibit the washing of clothes by washermen at any other place in the cantonment:

Provided that such prohibition shall not be deemed to apply to the washing by a washerman of his own clothes or of the clothes of any other person who is an occupier of the place at which they are washed.

(3) Whoever contravenes any prohibition contained in a notice issued under sub-section *(2)* shall be punishable with fine which may extend to five hundred rupees.

Licences required for carrying on of certain occupations.

277. *(1)* No person of any of the following classes, namely:—

(a) butchers and vendors of poultry, game or fish;

(b) persons keeping pigs for profit, and dealers in the flesh of pigs which have been slaughtered within or without cantonment;

(c) persons keeping milch cattle or milch goats for profit;

(d) persons keeping for profit any animals other than pigs, milch cattle or milch goats;

(e) dairymen, buttermen and makers and vendors of ghee;

(f) makers of bread, biscuits or cake and vendors of bread, biscuits or cake made within or without cantonment;

(g) vendors of fruits or vegetables;

(h) manufacturers of aerated or other potable waters or of ice or ice-cream, and vendors of the same;

(i) vendors of any medicines, drugs or articles of food or drink for human consumption (other than the flesh of pigs, milk, butter, bread, biscuits, cake, fruit, vegetables, aerated or other potable waters or ice or ice-cream) which are of a perishable nature;

(j) vendors of spirituous liquor;

(k) vendors of water to be used for drinking purposes;

(l) washermen;

(m) dealers in hay, straw, wood, charcoal or other inflammable material;

(n) dealers in fire-works, kerosene oil, petroleum or any other inflammable oil or spirit;

(o) tanners and dyers;

(p) persons carrying on any trade or occupation from which offensive or unwholesome smells arise;

(q) vendors of wheat, rice and other grain or of flour;

(r) makers and vendors of sugar or sweetmeats;

(s) barbers and keepers of shaving saloons;

(t) any other person carrying on such other trade, calling or occupation as the Central Government may, by notification in the Official Gazette, specify in this behalf,

shall carry on his trade, calling or occupation in any part of a cantonment unless he has applied for and obtained a licence in this behalf from the Board.

(2) A licence granted under sub-section *(1)* shall be valid until the end of the year in which it is issued and the grant of such licence shall not be withheld by the Board unless it has reason to believe that the business which it is intended to establish or maintain would be offensive or dangerous to the public or that the premises in which the business is intended to be established or maintained are unfit or unsuitable for the purpose.

(3) Notwithstanding anything contained in sub-section *(1)*,—

(a) no person who was, at the commencement of this Act, carrying on his trade, calling or occupation in any part of a cantonment shall be bound to apply for a licence for carrying on such trade or occupation in that part until he has received from the Board not less than three month's notice in writing of his obligation to do so, and if the Board refuses to grant him a licence, it shall pay compensation for any loss incurred by reason of such refusal;

(b) no person shall be required to take out a licence for the sale or storage of petroleum or for the sale or possession for sale of poisons or white arsenic in any case in which he is required to take out a licence for such sale, storage, or possession for sale by or under the Petroleum Act, 1934 , or the Poisons Act, 1919.

30 of 1934.
12 of 1919.

(4) The Board may charge for the grant of licences, under this section such reasonable fees, as it may fix keeping in view the fees levied in this regard in a municipality in the State wherein such cantonment is situated.

Power to stop use of premises used in contravention of licences.

278. If the Chief Executive Officer is of opinion that any eating house, lodging house, hotel, boarding house, tea shop, coffee house, café, restaurant, refreshment room or other place where public is admitted for repose or for consumption of any food or drink or where food is sold or prepared for sale or any theatre, cinema hall, circus, dancing hall or similar other place of public resort, recreation or amusement is kept open without a license or otherwise than in conformity with the terms of a license granted in respect thereof, he may stop the use of any such premises for any such purpose for a specified period by such means as he may consider necessary.

Conditions which may be attached to licences.

279. A licence granted to any person under section 277 shall specify the part of the cantonment in which the licensee may carry on his trade, calling or occupation, and may regulate the hours and manner of transport within the cantonment of any specified articles intended for human consumption, and may contain any other conditions which the Board thinks fit to impose in accordance with bye-laws made under this Act.

General provisions

Power to vary licence.

280. If the Board is satisfied that any place used under a licence granted under this Chapter is a nuisance or is likely to be dangerous to life, health or property, the Board may, by notice in writing, require the owner, lessee or occupier thereof to discontinue the use of such place or to effect such alternations, additions, or improvements as will, in the opinion of the Board, render it no longer a nuisance or dangerous.

Carrying on trade, etc., without licence or in contravention of section 280.

281. Whoever carries any trade, calling or occupation for which a licence is required without obtaining a licence therefor or while the licence therefor is suspended or after the same has been cancelled, and whoever, after receiving a notice under section 280, uses or allows to be used any building or place in contravention thereof, shall be punishable with fine which may extend to five thousand rupees and, in the case of a continuing offence, with an additional fine which may extend to five hundred rupees for every day after the first during which the offence is continued.

Feeding animals on dirt, etc.

282. Whoever feeds or allows to be fed on filthy or deleterious substances any animal, which is kept for the purpose of supplying milk to, or which is intended to be used as food for, the inhabitants of a cantonment or allows it to graze in any place in which grazing has, for sanitary reasons, been prohibited by public notice by the Board shall be punishable with fine which may extend to one thousand rupees.

Entry, inspection and seizure

Powers of entry and seizure.

283. *(1)* The President or the Vice-President, the Chief Executive Officer, the Health Officer, the Assistant Health Officer, or any other official of a Board authorised by it in writing in this behalf—

(a) may at any time enter into any market, building, shop, stall or other place in the cantonment for the purpose of inspecting, and may inspect, any animal, article or thing intended for human food or drink or for medicine, whether exposed or hawked about for sale or deposited in or brought to any place for the purpose of sale, or of preparation for sale, or any utensil or vessel for preparing, manufacturing or containing any such article, or thing, and may enter into and inspect any place used as a slaughter-house and may examine any animal or article therein;

(b) may seize any such animal, article or thing which appears to him to be diseased, or unwholesome or unfit for human food or drink or medicine, as the case may be, or to be adulterated or to be not what it is represented to be, or any such utensil or vessel which is of such a kind or in such a state as to render any article prepared, manufactured or contained therein unwholesome or unfit for human food, drink or medicine, as the case may be.

(2) Any article seized under sub-section *(1)* which is of a perishable nature may, under the orders of the Health Officer or the Assistant Health Officer, forthwith be destroyed if, in his opinion, it is diseased, unwholesome or unfit for human food, drink or medicine, as the case may be.

(3) Every animal, article, utensil, vessel or other thing seized under sub-section *(1)* shall, if it is not destroyed under sub-section *(2)*, be taken before a Magistrate who shall give orders as to its disposal.

(4) The owner or person in possession, at the time of seizure under sub-section *(1)*, of any animal or carcass which is diseased or of any article or thing which is unwholesome or unfit for human food, drink or medicine, as the case may be, or is adulterated or is not what it is represented to be, or of any utensil or vessel which is of such kind or in such state as is described in clause *(b)* of sub-section *(1)*, shall be punishable with fine which may extend to five thousand rupees, and the animal, article, utensil, vessel or other thing shall be liable to be forfeited to the Board or to be destroyed or to be so disposed of as to prevent it being exposed for sale or used for the preparation of food, drink or medicine, as the case may be.

Explanation I.—If any such article, having been exposed or stored in, or brought to, any place mentioned in sub-section *(1)* for sale as ghee, contains any substance not exclusively derived from milk, it shall be deemed, for the purposes of this section, to be an article which is not what it is represented to be.

Explanation II.—Meat subjected to the process of blowing shall be deemed to be unfit for human food.

Explanation III.—The article of food or drink shall not be deemed to be other than what it is represented to be merely by reason of the fact that there has been added to it some substance not injurious to health:

Provided that —

(a) such substance has been added to the article because the same is required for the preparation or production thereof as an article of commerce in a state fit for carriage or consumption and not fraudulently to increase the bulk, weight or measure of the food or drink or conceal the inferior quality thereof; or

(b) in the process of production, preparation or conveyance of such article of food or drink, the extraneous substance has unavoidably become intermixed therewith; or

(c) the owner or person in possession of the article has given sufficient notice by means of a label distinctly and legibly written or printed thereon or therewith, or by other means of a public description, that such substance has been added; or

(d) such owner or person has purchased the article with a written warranty that it was of a certain nature, substance and quality and had no reason to believe that it was not of such nature, substance and quality, and has exposed it or hawked it about or brought it for sale in the same state and by the same description as that in and by which he purchased it.

Import of cattle and flesh

284. *(1)* No person shall, without the permission in writing of the Chief Executive Officer, bring into a cantonment any animal intended for human consumption, or the flesh of any animal slaughtered outside the cantonment otherwise than in a slaughter-house maintained by the Central Government or the State Government or the Board: Import of cattle and flesh.

Provided that the Chief Executive Officer shall not grant such permission unless he has considered the recommendation of the Health Officer made in this behalf.

(2) Any animal or flesh brought into a cantonment in contravention of sub-section *(1)* may be seized by the Chief Executive Officer or by any official of the Board and sold or otherwise disposed of as the President of the Board may direct, and, if it is sold, the sale proceeds may be credited to the cantonment fund.

(3) Whoever contravenes the provisions of sub-section *(1)* shall be punishable with fine which may extend to two thousand five hundred rupees.

(4) Nothing in this section shall be deemed to apply to cured or preserved meat or to animals driven or meat carried through a cantonment for consumption outside thereof, or to meat brought into a cantonment by any person for his immediate domestic consumption:

Provided that the Board may, by public notice, direct that the provisions of this section shall apply to cured or preserved meat of any specified description or brought from any specified place.

CHAPTER XII

SPIRITUOUS LIQUORS AND INTOXICATING DRUGS

285. If within a cantonment, or within such limits adjoining a cantonment as the Central Government may, by notification in the Official Gazette, define, any person not subject to Army, Navy or Air Force law, or any person subject to Army, Navy or Air Force law, otherwise than as a military officer or a soldier knowingly barters, sells or supplies, or offers or attempts to barter, sell or supply, any spirituous liquor or intoxicating drug to or for the use of any soldier or soldier's wife or minor child without the written permission of the Officer Commanding the station, or of some person authorised by the Officer Commanding Unauthorised sale of spirituous liquor or intoxicating drug.

the station, to grant such permission, he shall be punishable with fine which may extend to five thousand rupees, or with imprisonment for a term which may extend to six months, or with both.

Unauthorised possession of spirituous liquor.

286. If within a cantonment, or within any limits defined under section 285 —

(a) any person subject to, Army, Navy or Air Force law, otherwise than as a military officer or a soldier; or

(b) the wife or servant of any such person or of a soldier,

has in his or her possession, except on behalf of the Central Government or for the private use of a military officer, more than one quart of any spirituous liquor, other than fermented malt-liquor, without the written permission of the Officer Commanding the station or of some person authorised by the Officer Commanding the station, to grant such permission, he or she shall be punishable, in the case of a first offence, with fine which may extend to two thousand five hundred rupees, and, in the case of a subsequent offence, with imprisonment for a term which may extend to three months, or with fine which may extend to five thousand rupees.

Arrest of persons and seizure and confiscation of things for offences against the two last foregoing sections.

287. *(1)* Any police officer or excise officer may, without an order from a Judicial Magistrate, and without a warrant, arrest any person whom he finds committing an offence under section 285 or section 286, and may seize and detain any spirituous liquor or intoxicating drug in respect of which such an offence has been committed and any vessels or coverings in which the liquor or drug is contained.

(2) Where a person accused of an offence under section 285 has been previously convicted of an offence under that section, an officer in charge of a police station may, with the written permission of a Judicial Magistrate, seize and detain any spirituous liquor or intoxicating drug within the cantonment or within any limits defined under that section which, at the time of the alleged, commission of the subsequent offence, belonged to, or was in the possession of, such person.

(3) The court convicting a person of an offence under section 285 or section 286 may order the confiscation of the whole or any part of anything seized under sub-section *(1)* or sub-section *(2)*.

(4) Subject to the provisions of Chapter XXXIV of the Code of Criminal Procedure, 1973, anything, seized under sub-section *(1)* or sub-section *(2)* and not confiscated under sub-section *(3)* shall be restored to the person from whom it was taken. 2 of 1974.

Saving of articles sold or supplied for medicinal purposes.

288. The foregoing provisions of this Chapter shall not apply to the sale or supply of any article in good faith for medicinal purposes by a medical practitioner, chemist or druggist authorised in this behalf by a general or special order of the Officer Commanding the station.

CHAPTER XIII

PUBLIC SAFETY AND SUPPRESSION OF NUISANCES

General Nuisances

Penalty for causing nuisances.

289. *(1)* Whoever —

(a) in any street or other public place within a cantonment, —

(i) is drunk and disorderly or drunk and incapable of taking care of himself; or

(ii) uses any threatening, abusive or insulting words, or behaves in a threatening or insulting manner with intent to provoke a breach of the peace, or whereby a breach of the peace is likely to be occasioned; or

(iii) eases himself, or willfully or indecently exposes his person; or

(iv) loiters, or begs importunately, for alms; or

(v) exposes or exhibits, with the object of exciting charity, any deformity or disease or any offensive sore or wound; or

(vi) carries meat exposed to public view; or

(vii) is found gaming; or

(viii) pickets animals, or collects vehicles; or

(ix) being engaged in the removal of night-soil or other offensive matter or rubbish, willfully or negligently permits any portion thereof to spill or fall, or neglects to sweep away or otherwise effectually to remove any portion thereof which may spill or fall in such street or place; or

(x) without proper authority affixes upon any building, monument, post, wall, fence, tree or other thing, any bill, notice or other document; or

(xi) without proper authority defaces or writes upon or otherwise marks any building, monument, post, wall, fence, tree or other thing; or

(xii) without proper authority removes, destroys, defaces or otherwise obliterates any notice or other document put up or exhibited under this Act; or

(xiii) without proper authority displaces, damages, or makes any alteration in, or otherwise interferes with the pavement, gutter, storm water- drain, flags or other materials of any such street, or any lamp, bracket, direction-post, hydrant or water-pipe maintained by the Board in any such street or public place, or extinguishes a public light; or

(xiv) carries any corpse not decently covered or without taking due precautions to prevent risk of infection or injury to the public health or annoyance to passers-by or to persons dwelling in the neighbourhood; or

(xv) carries night-soil or other offensive matter or rubbish at any hour prohibited by the Chief Executive Officer by public notice, or in any pattern of vehicle or receptacle which has not been approved for the purpose by the Chief Executive Officer, or fails to close such vehicle or receptacle when in use; or

(b) carries night-soil or other offensive matter or rubbish along any route in contravention of any prohibition made in this behalf by the Chief Executive Officer by public notice; or

(c) deposits, or causes or permits to be deposited, earth or materials of any description, or any offensive matter or rubbish, in any place not intended for the purpose in any street or other public place or waste or unoccupied land under the management of the Board; or

(d) having charge of a corpse fails to bury, burn or otherwise lawfully dispose of the same within twenty-four hours after death; or

(e) makes any grave or buries or burns any corpse in any place not set apart for such purpose; or

(f) keeps or uses, or knowingly permits to be kept or used, any place as a common gaming house, or assists in conducting the business of any common gaming house; or

(g) at any time or place at which the same has been prohibited by the Chief Executive Officer by public or special notice, beats a drum or tom-tom, or blows a horn or trumpet, or beats any utensil, or sounds any brass or other instrument, or plays any music; or

(h) disturbs the public peace or order by singing, screaming or shouting or by using megaphone or loud-speaker; or

(i) lets loose any animal so as to cause, or negligently allows any animal to cause, injury, danger, alarm or annoyance to any person; or

(j) being the occupier of any building or land in or upon which an animal dies, neglects within three hours of the death of the animal, or, if the death occurs at night, within three hours after sunrise, either—

(i) to report the occurrence to the Chief Executive Officer or to an officer, if any, appointed by him in this behalf with a view to securing the removal and disposal of the carcass by the public conservancy establishment; or

(ii) to remove and dispose of the carcass in accordance with any general directions given by the Board by public notice or any special direction given by the Chief Executive Officer on receipt of such report as aforesaid; or

(k) save with the written permission of the Chief Executive Officer and in such manner as he may authorise, stores or uses night-soil, manure, rubbish or any other substance emitting an offensive smell; or

(l) uses or permits to be used as a latrine any place not intended for the purpose; or

(m) uses or permits to be used without previous permission of the Chief Executive Officer any premises for any trade involving offensive smell or smoke;

shall be punishable with fine which may extend to two thousand five hundred rupees.

(2) Whoever does not take reasonable means to prevent any child under the age of twelve years being in his charge from easing himself in any street or other public place within the cantonment shall be punishable with fine which may extend to two hundred-fifty rupees.

(3) The owner or keeper of any animal found picketed or staying without a keeper in a street or other public place in a cantonment shall be punishable with fine which may extend to one thousand rupees.

(4) Any animal found picketed or straying as aforesaid may be removed by any officer or employee of the Board to a pound.

(5) Whoever in a cantonment manufactures, supplies, carries or uses for packaging or any other purposes material of non-biodegradable nature including polythene bags shall be punished with fine which may extend to five thousand rupees or imprisonment which may extend to six months.

Dogs

Registration and control of dogs.

290. *(1)* A Board may make bye-laws to provide for the registration of all dogs kept within the cantonment.

(2) Such bye-laws shall—

(a) require the registration, by any officer authorised in this behalf of all dogs kept in the cantonment;

(b) require that every registered dog shall wear a collar to which shall be attached a metal token to be issued by the registration authority, and fix the fee payable for the issue thereof;

(c) require that any dog which has not been registered or which is not wearing such token shall, if found in any public place, be detained at a place set apart for the purpose; and

(d) fix the fee which shall be charged for such detention and provide that any such dog shall be liable to be destroyed or otherwise disposed of unless it is claimed and the fee in respect thereof is paid within one week; and may provide for such other matters as the Board thinks fit.

(3) The Chief Executive Officer may—

(a) cause to be destroyed, or to be confined for such period as he may direct, any dog or other animal which is, or is reasonably suspected to be, suffering from rabies, or which has been bitten by any dog or other animal suffering or suspected to be suffering from rabies;

(b) by public notice direct that, after such date as may be specified in the notice, dogs which are without collars or without marks distinguishing them as private property and are found straying on the streets or beyond the enclosures of the houses of their owners, if any, may be destroyed, and cause them to be destroyed accordingly.

(4) No damages shall be payable in respect of any dog or other animal destroyed or otherwise disposed of under this section.

(5) Whoever, being the owner or person in charge of any dog, neglects to restrain it so that it shall not be at large in any street without being muzzled and without being secured by a chain lead in any case in which—

(a) he knows that the dog is likely to annoy or intimidate any person; or

(b) the Board has, by public notice during the prevalence of rabies, directed that dogs shall not be at large without muzzles and chain leads,

shall be punishable with fine which may extend to one thousand rupees.

(6) Whoever in a cantonment—

(a) allows any ferocious dog which belongs to him or is in his charge to be at large without being muzzled; or

(b) sets on or urges any dog or other animal to attack, worry or intimidate any person, or

(c) knowing or having reason to believe that any dog or animal belonging to him or in his charge has been bitten by an animal suffering or reasonably suspected to be suffering from rabies, neglects to give immediate information of the fact to the Chief Executive Officer or gives information which is false,

shall be punishable with fine which may extend to two thousand rupees.

Traffic

291. Whoever in driving, leading or propelling a vehicle along a street fails, except in a case of actual necessity,— Traffic rule of the road.

(a) to keep to the left when passing a vehicle coming from the opposite direction; or

(b) to keep to the right when passing a vehicle going in the same direction as himself,

shall be punishable with fine which may extend to five hundred rupees.

Prevention of fire, etc.

292. *(1)* The Chief Executive Officer may, by public notice, direct that within such limits in the cantonment as may be specified in the notice, the roofs and external walls of huts or other buildings shall not, without the permission in writing of the Chief Executive Officer be made or renewed of grass, mats, leaves or other inflammable materials, and may, Use of inflammable materials for building purposes.

by notice in writing, require any person who has disobeyed any such direction as aforesaid to remove or alter the roofs or walls so made or renewed.

(2) The Chief Executive Officer may, by notice in writing, require the owner of any building in the cantonment which has an external roof or wall made of any such material as aforesaid to remove such roof or wall within such time as may be specified in the notice, notwithstanding that a public notice under sub-section *(1)* has not been issued or that such roof or wall was made with the consent of the Chief Executive Officer or before the issue of such public notice:

Provided that, in the case of any such roof or wall in existence before the issue of such a public notice or made with the consent of the Chief Executive Officer, it shall make compensation, not exceeding the original cost of constructing the roof or wall, for any damage caused by the removal.

Stacking or collecting inflammable materials.

293. A Board may, by a public notice, prohibit in any case where such prohibition appears to it to be necessary for the prevention of danger to life or property, the stacking or collecting of wood, dry grass, straw or other inflammable materials, or the placing of mats or thatched huts or the lighting of fires in any place in the cantonment, or within any limits therein, which may be specified in the notice:

Provided that Chief Executive Officer may, in case of imminent danger to public life or property, enforce such prohibition in consultation with the President or the Vice-President in the absence of the President.

Care of naked lights.

294. No person shall set a naked light on or near any building in any street or other public place in a cantonment in such manner as to cause danger of fire:

Provided that nothing in this section shall be deemed to prohibit the use of lights for purpose of illumination on the occasion of a festival or public or private entertainment.

Regulation of cinematographic and dramatic performances.

295. *(1)* Notwithstanding anything contained in any other law relating to sanctioning of cinematograph films for exhibition, no exhibition of pictures or other optical effects by means of a cinematograph or other like apparatus for the purpose of which inflammable films are used, and no public dramatic performance, pantomime, circus, carnival, exhibition, dance or other similar show for public recreation or amusement, shall be given in any cantonment elsewhere than in premises for which a licence has been granted by the Chief Executive Officer under this section.

(2) If the owner of a cinematograph or other apparatus uses the apparatus or allows it to be used, or if any person takes any part in any public dramatic performance, pantomime, circus, carnival, exhibition, dance or other similar show for public recreation or amusement, in contravention of the provisions of this section, or if the occupier of any premises allows them to be used in contravention of the provisions of this section or of any condition of any licence granted under this section, he shall be punishable with fine which may extend to five thousand rupees, and, in the case of continuing offence, with an additional fine which may extend to two thousand rupees for each day after the first during which the offence continues.

(3) Nothing in this section shall be deemed to prohibit the giving of any exhibition or any dramatic performance, pantomime, circus, carnival, exhibition, dance or other similar show for public recreation or amusement, in any theatre or institute which is the property of Government where the exhibition, performance, pantomime, circus, carnival, exhibition, dance or other similar show for public recreation or amusement, is held with the permission and under the control of the military authorities.

Discharging fire-works, fire-arms, etc.

296. Whoever in a cantonment discharges any fire-arm or lets off fire-works or fire-balloons, or detonates or engages in any game or carries on works such as quarries, blasts, timber cutting or building operation in such manner as to cause or to be likely to

cause danger to persons passing by or dwelling or working in the neighbourhood or risk of injury to property shall be liable to fine which may extend to two thousand five hundred rupees.

Power to require buildings, wells, etc., to be rendered safe.

297. Where in a cantonment any building, or wall, or anything affixed thereto, or any well, tank, reservoir, pool, depression, or excavation, or any bank or tree, is in the opinion of the Chief Executive Officer, in a ruinous state or, for want of sufficient repairs, protection or enclosure, a nuisance or dangerous to persons passing by or dwelling or working in the neighbourhood, the Chief Executive Officer, by notice in writing may, require the owner, or part-owner or person claiming to be the owner or part-owner thereof, or, failing any of them, the occupier, thereof, to remove the same or may require him to repair, or to protect or to enclose, the same in such manner as he thinks necessary; and, if the danger is, in the opinion of the Chief Executive Officer, imminent, he shall forthwith take such steps as he thinks necessary to avert the same.

Enclosure of wasteland used for improper purposes.

298. The Chief Executive Officer may, by notice in writing, require the owner or part-owner, or person claiming to be the owner or part-owner, of any building or land in the cantonment, or the lessee or the person claiming to be the lessee of any such land, which, by reason of disuse or disputed ownership or other cause, has remained unoccupied and has become the resort of idle and disorderly persons or of persons who have no ostensible means of subsistence or cannot give a satisfactory account of themselves, or is used for gaming or immoral purposes, or otherwise occasions or is likely to occasion a nuisance, to secure and enclose the same within such time as may be specified in the notice.

CHAPTER XIV

REMOVAL AND EXCLUSION FROM CANTONMENTS AND SUPPRESSION OF SEXUAL IMMORALITY

Power to remove brothels and prostitutes.

299. The Officer Commanding the Station or the Board may, on receiving information that any building in the cantonment is used as a brothel or for purposes of prostitution, by order in writing setting forth the substance of information received, summon the owner, lessee, tenant or occupier of the building to appear before him or the Board as the case may be either in person or by an authorised agent, and, if the Officer Commanding the Station or the Board, is then satisfied as to the truth of the information, may, by order in writing, direct the owner, lessee, tenant or occupier, as the case may be, to discontinue such use of the building within such period as may be specified in the order.

Penalty for loitering and importuning for purposes of prostitution.

300. (*1*) Whoever in a cantonment loiters for the purpose of prostitution or importunes any person to the commission of sexual immorality, shall be punishable with imprisonment which may extend to three months, or with fine which may extend to five thousand rupees and in case of subsequent offence shall be punishable with imprisonment which may extend to one year.

(*2*) No prosecution for an offence under this section shall be instituted except on the complaint of the person importuned, or of a military officer in whose presence the offence was committed, or of a member of the Military, Naval or Air Force Police, being employed in the cantonment and authorised in this behalf by the Officer Commanding the Station, in whose presence the offence was committed, or of a police officer not below the rank of Assistant Sub-Inspector, who is deployed in the cantonment and authorised in this behalf by the Officer Commanding the Station with the concurrence of District Magistrate.

Removal of persons from cantonment.

301. If the Officer Commanding the Station or the Board is, after such inquiry as he or it thinks necessary, satisfied that any person residing in or frequenting the cantonment is a prostitute or has been convicted of an offence, under section 300, or of the abetment of such an offence he or, as the case may be, the Board may cause to be served on such person an order in writing requiring such person to remove from the cantonment within such time as may be specified in the order, and prohibiting such person from re-entering it without the permission in writing of the Officer Commanding the Station or the Board.

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Removal and exclusion from cantonment of disorderly persons.

302. (*1*) A Judicial Magistrate of the First Class, having jurisdiction in a cantonment, on receiving information that any person residing in or frequenting the cantonment—\

(*a*) is a disorderly person who has been convicted more than once of gaming or who keeps or frequents, a common gaming house, a disorderly drinking shop or a disorderly house of any other description; or

(*b*) has been convicted more than once either within the cantonment or elsewhere, of an offence punishable under Chapter XVII of the Indian Penal Code; or 45 of 1860.

(*c*) has been ordered under Chapter VIII of the Code of Criminal Procedure, 1973, either within the cantonment or elsewhere to execute a bond for his good behaviour, 2 of 1974.

may record in writing the substance of the information received, and may issue a summon to such person requiring him to appear and show cause why he should not be required to remove from the cantonment and be prohibited from re-entering it.

(*2*) Every summons issued under sub-section (*1*) shall be accompanied by a copy of the record aforesaid and the copy shall be served along with the summons on the person against whom the summon is issued.

(*3*) The Magistrate shall, when the person so summoned appears before him, proceed to inquire into the truth of the information received and take such further evidence as he thinks fit, and if upon such inquiry it appears to him that such person is a person of any kind described in sub-section (*1*) and that it is necessary for the maintenance of good order in the cantonment that such person is required to be removed therefrom and be prohibited from re-entering the cantonment, the Magistrate shall inform the matter to the Officer Commanding the Station and, the Officer Commanding the Station shall cause to be served on such person an order in writing requiring him to remove from the cantonment within such time as may be specified in the order and prohibiting him from re-entering it without the permission in writing of the Officer Commanding the Station.

Removal and exclusion from cantonment of seditious persons.

303. (*1*) If any person in a cantonment causes or attempts to cause or does any act which he knows is likely to cause disloyalty; disaffection or breach of discipline amongst any portion of the forces or is a person who, the Officer Commanding the Station has reason to believe, is likely to do any such act, the Officer Commanding the Station may make an order in writing setting forth the reasons for making of the same and requiring such person to remove from the cantonment within such time as may be specified in the order and prohibiting him from re-entering it without the permission in writing of the Officer Commanding the Station:

Provided that no order shall be made under this section against any person unless he has had a reasonable opportunity of being informed of the grounds on which it is proposed to make the order and of showing cause why the order should not be made.

(*2*) Every order made under sub-section (*1*) shall be sent to the Superintendent of Police of the District, who shall cause a copy thereof to be served on the person concerned.

(*3*) Upon the making of any order under sub-section (*1*), the Officer Commanding the Station shall forthwith send a copy of the same to the Central Government.

(*4*) The Central Government may of its own motion and shall on application made to it in this behalf within one month of the date of the order by the person against whom the order has been made, call upon the District Magistrate to make after such inquiry as the Central Government may prescribe a report regarding the justice of the order and the necessity therefor:

Provided that at every such inquiry the person against whom the order has been made shall be given an opportunity of being heard in his own defence.

(5) The Central Government may, at any time after the receipt of the copy of an order sent under sub-section (3) or where a report has been called for under sub-section (4), on receipt of that report, if it is of opinion that the order should be varied or rescinded, make such orders thereon as it thinks fit.

(6) Any person who has been excluded from a cantonment by an order made under this section may, at any time after the expiry of one month from the date thereof, apply to the General Officer Commanding-in-Chief, the Command for the rescission of the same and, on such application being made, the said Officer may, after making such inquiry, if any, as he thinks necessary, either reject the application or rescind the order.

Penalty.

304. Whoever–

(a) fails to comply with an order issued under this Chapter within the period specified therein or whilst an order prohibiting him from re-entering a cantonment without permission is in force, re-enters the cantonment without such permission; or

(b) knowing that any person has, under this Chapter been required to remove from the cantonment and has not obtained the requisite permission to re-enter it, harbours or conceals such person in the cantonment,

shall be punishable with fine which may extend to five thousand rupees and in case of continuing offence with an additional fine which may extend to five hundred rupees for every day after the first during which he has persisted in the offence.

CHAPTER XV

POWERS, PROCEDURES, PENALTIES AND APPEALS

Entry and inspection

Powers of entry.

305. It shall be lawful for the President or the Vice-President of a Board, or the Chief Executive Officer, or the Health Officer or any person specially authorised by the Chief Executive Officer, or the Health Officer or for any other person authorised by general or special order of a Board in this behalf, to enter into or upon any building or land with or without assistants or workmen in order to make any inquiry, inspection, measurement, valuation or survey, or to execute any work, which is authorised by or under this Act or which it is necessary to make or execute for any of the purposes or in pursuance of any of the provisions of this Act or of any rule, bye-law or order made thereunder:

Provided that nothing in this section shall be deemed to confer upon any person any power such as is referred to in section 274 or section 283 or to authorise the conferment upon any person of any such power.

Power of inspection by member of a Board.

306. A Board may by special order authorise or order any member to inspect any work or institution constructed or maintained, in whole or part, at the expense of the Board, and any register, book accounts or other documents belonging to, or in the possession of, the Board.

Power of inspection, etc.

307. (1) A Board or the Chief Executive Officer may, by general or special order, authorise any person—

(a) to inspect any drain, privy, latrine, urinal, cesspool, pipe, sewer or channel in or on any building or land in the cantonment, and, in his discretion, to cause, the ground to be opened for the purpose of preventing or removing any nuisance arising from the drain, privy, latrine, urinal, cesspool, pipe, sewer or channel, as the case may be;

(b) to examine works under construction in the cantonment, to take levels or to remove, test, examine, replace or read any meter.

(2) If, on such inspection, the opening of the ground is found to be necessary for the prevention or removal of a nuisance, the expenses thereby incurred shall be paid by the owner or occupier of the land or building, but if it is found that no nuisance exists or but for such opening would have arisen, the ground or portion of any building, drain or other work

opened, injured or removed for the purpose of such inspection shall be filled in, reinstated, or made good, as the case may be by the Board or the Chief Executive Officer.

Power to enter land, adjoining land where work is in progress.

308. (*1*) The Chief Executive Officer of a cantonment may, with or without assistants or workmen, enter on any land within fifty yards of any work authorised by or under this Act for the purpose of depositing thereon any soil, gravel, stone or other materials, or of obtaining access to such work, or for any other purpose connected with the carrying on of the same.

(*2*) The Chief Executive Officer shall, before entering on any land under sub-section (*1*), give the occupier, or, if there is no occupier, the owner not less than three day's previous notice in writing of his intention to make such entry, and shall state the purpose thereof, and shall, if so required by the occupier or owner, fence off so much of the land as may be required for such purpose.

(*3*) The Chief Executive Officer shall, in exercising any power conferred by this section, do as little damage as may be, and compensation shall be payable by the Board to the owner or occupier of such land, or to both, for any such damage whether permanent or temporary.

Breaking into premises.

309. It shall be lawful for any person, authorised by or under this Act to make any entry into any place, to open or cause to be opened any door, gate or other barrier—

(*a*) if he considers the opening thereof necessary for the purpose of such entry; and

(*b*) if the owner or occupier is absent, or being present refuses to open such door, gate or barrier.

Entry to be made in the day time.

310. Save as otherwise expressly provided in this Act, no entry authorised by or under this Act shall be made except between the hours of sunrise and sunset.

Owner's consent ordinarily to be obtained.

311. Save as otherwise expressly provided in this Act, no building or land shall be entered without the consent of the occupier, or if there is no occupier of the owner thereof, and no such entry shall be made without giving the said occupier or owner, as the case may be, not less than four hours, written notice of the intention to make such entry:

Provided that no such notice shall be necessary if the place to be inspected is a factory or workshop or trade premises or a place used for carrying on any trade, calling or occupation specified in section 277 or a stable for horses or a shed for cattle or a latrine, privy or urinal or a work under construction, or for the purpose of ascertaining whether any animal intended for human food is slaughtered in that place in contravention of this Act or any bye-law made thereunder.

Regard to be had to social and religious usages.

312. When any place used as a human dwelling is entered under this Act, due regard shall be paid to the social and religious customs and usages of the occupants of the place entered, and no apartment in the actual occupancy of a female shall be entered or broken open until she has been informed that she is at liberty to withdraw and every reasonable facility has been afforded to her for withdrawing.

Penalty for obstruction.

313. Whoever obstructs or molests any person acting on behalf of the Board, who is not a public servant within the meaning of section 21 of the Indian Penal Code or any person with whom the Board has lawfully contracted, in the execution of his duty or of anything which he is empowered or required to do by virtue or in consequence of any of the provisions of this Act or any rule, bye-law or order made thereunder, or in fulfilment of his contract, as the case may be, shall be punishable with fine which may extend to five thousand rupees 45 of 1860.

Powers and duties of police officers

Arrest without warrant.

314. Any member of the police force employed in a cantonment may, without a warrant, arrest any person committing in his view a breach of any of the provisions of this Act which are specified in Schedule IV:

Provided that—

(*a*) in the case of a breach of any such provisions as is specified in Part B of

Schedule IV, no person shall be so arrested who consents to give his name and address, unless there is reasonable ground for doubting the accuracy of the name or address so given, the burden of proof of which shall lie on the arresting officer, and no person so arrested shall be detained after his name and address have been ascertained; and

(*b*) no person shall be so arrested for an offence under section 300 except —

(*i*) at the request of the person importuned, or of a military officer in whose presence the offence was committed; or

(*ii*) by or at the request of a member of the Military, Naval or Air Force Police, who is employed in the cantonment and authorised in this behalf by the Officer Commanding the Station, and in whose presence the offence was committed or by or at the request of any police officer not below the rank of assistant sub-inspector who is deployed in the cantonment and authorised in this behalf by the Officer Commanding the station.

315. It shall be the duty of all police officers to give immediate information to the Board of the commission of, or attempt to commit any offence against the provisions of this Act or of any rule or bye-law made thereunder, and to assist all cantonment officers and employees in the exercise of their lawful authority. Duties of police officers.

Notices

316. Where any notice, order or requisition made under this Act or any other rule or bye-law made thereunder requires anything to be done for the doing of which no time is fixed in this Act or in the rule or bye-law, the notice, order or requisition shall specify a reasonable time for doing the same. Notices to fix reasonable time.

317. (*1*) Every notice, order or requisition issued by a Board under this Act or any rule or bye-law made thereunder shall be signed— Authentication and validity of notices issued by Board.

(*a*) either by the President of the Board or by the Chief Executive Officer; or

(*b*) by the members of any committee especially authorised by the Board in this behalf.

(*2*) Whenever under this Act or any rule or bye-law made thereunder the doing of, or the omission to do, anything or the validity of anything depends upon the approval, sanction, consent, concurrence, declaration, opinion or satisfaction of the Board, a written document signed by any officer or member specified in sub-section (*1*) purporting to convey or set-forth such approval, sanction, consent, concurrence, declaration, opinion or satisfaction shall be sufficient evidence thereof.

(*3*) Every license, written permission, notice, bill summons or other document which is required by this Act or any rule or bye-law made thereunder to bear the signature of the President, Vice-President or the Chief Executive Officer, or of any such member of any committee as has been specially authorised by the Board in this behalf shall be deemed to be properly signed if it bears facsimile of the signature of any such officer or member, as the case may be, stamped thereon.

318. (*1*) Every notice, order or requisition issued under this Act or any rule or bye-law made thereunder shall, save as otherwise expressely provided, be served or presented— Service of notice, etc.

(*a*) by giving or tendering the notice, order or requisition, or sending it by post, to the person for whom it is intended; or

(*b*) if such person cannot be found, by affixing the notice order or requisition on some conspicuous part of his last known place of abode or business, if within the cantonment, or by giving or tendering the notice, order or requisition to some adult member or servant or his family, or by causing it to be affixed on some conspicuous part of the buildings or land, if any, to which it relates.

(2) When any such notice, order or requisition is required or permitted to be served upon an owner, lessee or occupier of any building or land, it shall not be necessary to name the owner, lessee or occupier therein, and the service thereof shall, save as otherwise expressly provided, be effected either—

(a) by giving or tendering the notice, order or requisition, or sending it by post, to the owner, lessee or occupier, or, if there are more owners, lessees, or occupiers than one to any one of them; or

(b) if no such owner, lessee or occupier can be found, by giving or tendering the notice, order or requisition to the authorised agent, if any, of any such owner, lessee or occupier, or to an adult member or servant of the family of any such owner, lessee, occupier, or by causing it to be affixed on some conspicuous part of the building or land to which it relates.

(3) When the person on whom a notice, order or requisition is to be served is a minor, service upon his guardian or upon an adult member or servant of his family shall be deemed to be service upon the minor.

Method of giving notice.

319. Every notice which, by or under this Act, is to be given or served as a public notice or as a notice which is not required to be given to any individual therein specified shall, save as otherwise expressly provided, be deemed to have been sufficiently given or served if a copy thereof is affixed in such conspicuous part of the office of the Board or in such other public place during such period, or is published in such local news paper or in such other manner, as the Board may direct.

Powers of Board in case of non-compliance with notice, etc.

320. In the event of non–compliance with the terms of any notice, order or requisition issued to any person under this Act or any rule or bye-law made thereunder, requiring such person to execute any work or to do any act, it shall be lawful for the Board, or the civil area committee or the Chief Executive Officer at whose instance the notice, order or requisition has been issued whether or not the person in default is liable to punishment for such default or has been prosecuted or sentenced to any punishment therefor, after giving notice in writing to such person, to take such action or such steps as may be necessary for the completion of the act or work required to be done or executed by him, and all the expenses incurred on such account shall be recoverable by the Chief Executive officer on demand, and if not paid within ten days after such demand, shall be recoverable in the same manner as moneys recoverable by the Board under section 324:

Provided that where the action or step relates to the demolition of any erection or re-erection under section 248 or the removal of any projection or encroachment under section 252, the Board or the civil area committee or the Chief Executive officer may request any police officer to render such assistance as considered necessary for the lawful exercise of any power in this regard and it shall be the duty of such police officer to render forthwith such assistance on such requisition.

Occupier not to obstruct owner when complying with notice.

321. If the owner of any property in respect of which a notice as is referred to in section 320 has been given is prevented by the occupier from complying with such notice, the Board or civil area committee or the Chief Executive Officer at whose instance such notice has been given, may, by order, require the said occupier to permit the owner within eight days from the date of service of such notice to take all such actions as may be necessary to comply with the said notice and such owner shall, for the period during which he is prevented as aforesaid, be exempt from any fine or penalty to which he might otherwise have become liable by reason of non-compliance with such notice.

Recovery of Money

Liability of occupier to pay in default of owner.

322. (1) If any such notice as is referred to in section 320 has been given to any person in respect of property of which he is the owner, and he fails to comply with the notice so given, the Board or the civil area committee or the Chief Executive Officer at whose instance such notice has been issued may require any occupier of such property or

of any part thereof to pay to it or him instead of to the owner any rent payable by him in respect of such property, as it falls due, up to the amount recoverable from the owner under section 320:

Provided that if the occupier, on application made to him by the Board or the civil area committee or the Chief Executive Officer at whose instance such notice has been issued, refuses to truly disclose the amount of his rent or the name or address of the person to whom it is payable, the Chief Executive Officer may recover from the occupier the whole amount recoverable under section 320 in the same manner as money is recoverable by the Board under section 324.

(*2*) Any amount recovered from an occupier instead of from an owner under sub-section (*1*) shall, in the absence of any contract between the owner and the occupier to the contrary, be deemed to have been paid to the owner.

Relief to Agents and Trustees.

323. (*1*) Where any person, by reason of his receiving the rent of immovable property as an agent or trustee, or of his being as an agent or trustee the person who would receive the rent if the property were let to a tenant, would under this Act be bound to discharge any obligation imposed on the owner of the property for the discharge of which money is required, he shall not be bound to discharge the obligation unless he has or but for his own improper act or default might have had funds in his hands belonging to the owner sufficient for the purpose.

(*2*) The burden of proving any fact entitling an agent or trustee to relief under sub-section (*1*) shall lie upon him.

(*3*) Where any agent or trustee has claimed and established his right to relief under this section, the Board may, by notice in writing, require him to apply to the discharge of such obligation as aforesaid the first monies which may come to his hands on behalf, or for the use, of the owner and on failure to comply with the notice, he shall be deemed to be personally liable to discharge the obligation.

Method of recovery.

324. (*1*) Notwithstanding anything elsewhere contained in this Act arrears of any tax, and any other money recoverable, including rent on land and buildings due or damages and fine due under leases or licences executed by or in favour of a Board or the Defence Estates Officer under this Act or the rules made thereunder may be recovered together with the cost of recovery either by suit or on application to a Judicial Magistrate having jurisdiction in the cantonment or in any place where the person from whom such tax, rent or money is recoverable may for the time being be residing, either by the distress and sale of movable property of such person, or by the attachment and sale of immovable property of that person, which is within the limits of the jurisdiction of such Judicial Magistrate, or by both these methods, and shall, if payable by the owner of any property as such, be a charge on the property until paid :

Provided that the tools of artisans, growing crops upto the value of five thousand rupees and implements and cattle used for the purposes of agriculture shall be exempt from such distress or sale.

(*2*) An application to a Judicial Magistrate under sub-section (*1*) shall be in writing and shall be signed by the President or Vice-President of the Board or by the Chief Executive Officer or the Defence Estates Officer or the Officer Commanding the Station or any other officer authorised by any of these officers, but shall not require to be personally presented.

(*3*) Upon receiving the application, the Judicial Magistrate referred to in sub-section (*1*) may take action for the recovery of the amount of tax, rent or money from the person specified in the application as if such amount were a fine recoverable under a sentence passed by him and the provisions of section 421 and 422 of the Code of Criminal Procedure, 1973, shall, so far as may be, apply to the recovery of such amount:

2 of 1974.

Provided that the recovery of no such amount shall be made by the arrest or detention in prison of the said person.

Committees of Arbitration

Application for a Committee of Arbitration.

325. In the event of any disagreement as to the liability of a Board to pay any compensation under this Act, or as to the amount of any compensation so payable, the person claiming such compensation may apply to the Board shall for the reference of the matter to a Committee of Arbitration, and the Board shall forthwith proceed to convene a Committee of Arbitration to determine the matter in dispute.

Procedure for convening Committee of Arbitration.

326. When a Committee of Arbitration is to be convened, the Board shall cause a public notice to be published stating the matter to be determined, and shall forthwith send copies of the order to the District Magistrate, and to the other party concerned, and shall, as soon as may be, nominate such members of the Committee as it is entitled to nominate under section 327, and by notice in writing call upon the other persons who are entitled to nominate a member or members of the Committee to nominate such member or members in accordance with provisions of that section.

Constitution of the Committee of Arbitration

327. (*1*) Every Committee of Arbitration shall consist of five members, namely:—

(*a*) a Chairman who shall be a person not in the service of the Government or the Board, and who shall be nominated by the Officer Commanding the Station;

(*b*) two persons nominated by the Board;

(*c*) two persons nominated by the other party concerned.

(*2*) If the Board or the other party concerned or the Officer Commanding the Station fails within seven days of the date of issue of the notice referred to in section 326 to make any nomination which it or he is entitled to make or if any member who has been so nominated neglects or refuses to act and the Board or other person by whom such member was nominated fails to nominate another member in his place within seven days from the date on which it or he may be called upon to do so by the District Magistrate, the District Magistrate shall forthwith appoint a member or members, as the case may be, to fill the vacancy or vacancies.

No person to be nominated who has direct interest or whose services are not immediately available.

328. (*1*) No person who has a direct interest in the matter under reference, or whose services are not immediately available for the purposes of the Committee shall be nominated a member of the Committee of Arbitration.

(*2*) If, in the opinion of the District Magistrate any person who has been nominated has a direct interest in the matter under reference or is otherwise disqualified for nomination or if the services of any such person are not immediately available as aforesaid and if the Board or the other person by whom any such person was nominated fails to nominate another member within seven days from the date on which it or he may be called upon to do so by the District Magistrate, such failure shall be deemed to constitute a failure to make a nomination within the meaning of section 327.

Meetings and powers of Committee of Arbitration.

329. (*1*) When a Committee of Arbitration has been duly constituted, the Board shall, by notice in writing inform each of the members of the fact, and the Committee shall meet as soon as may be thereafter.

(*2*) The Chairman of the Committee shall fix the time and place of the meetings and shall have power to adjourn any meeting from time to time as may be necessary.

(*3*) The Committee shall receive and record evidence, and shall have power to administer oaths to witnesses, and on requisition in writing signed by the Chairman of the Committee, the District Magistrate shall issue the necessary processes for the attendance of witnesses and the production of documents required by the Committee and may, enforce the said processes as if they were processes for attendance or production before himself.

Decisions of Committee of Arbitration.

330. (*1*) The decisions of every Committee of Arbitration shall be in accordance with the majority of votes taken at a meeting at which the Chairman and at least three of the other members are present.

(*2*) If there is not a majority of votes in favour of any proposed decision, the opinion of the Chairman shall prevail.

(3) The decision of a Committee of Arbitration shall be final and shall not be questioned in any court.

Prosecutions

Prosecutions

331. Save as otherwise expressly provided in this Act, no court shall proceed to the trial of any offence made punishable by or under this Act, other than an offence specified in Schedule IV, except on the complaint of or upon information received from the Board concerned or a person authorised by the Board by a general or special order in this behalf.

Composition of offence.

332. (1) The Chief Executive Officer or any person authorised by him, by general or special order in this behalf, may, either before or after the institution of the proceedings, compound an offence, made punishable by or under this Act other than an offence under Chapter XIV:

Provided that no offence shall be compoundable which is committed by failure to comply with a notice, order or requisition issued by or on behalf of the Chief Executive Officer, unless and until the same has been complied with in so far as compliance is possible.

(2) Where an offence has been compounded, the offender, if in custody, shall be discharged and no further proceedings shall be taken against him in respect of the offence so compounded.

General Penalty Provisions

General penalty.

333. Whoever, in any case in which a penalty is not expressly provided by this Act, fails to comply with any notice, order or requisition issued under any provision thereof, or otherwise contravenes any of the provisions of this Act, shall be punishable with fine which may extend to five thousand rupees, and, in the case of a continuing failure or contravention, with an additional fine which may extend to five hundred rupees for everyday after the first during which he has persisted in the failure or contravention.

Offences by companies.

334. (1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against punished accordingly.

Explanation.—For the purposes of this section,—

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

Cancellation or suspension of licences, etc.

335. Where any person to whom a licence or written permission has been granted under this Act or any agent or servant of such person commits a breach of any of the conditions thereof, or of any bye-law made under this Act for the purpose of regulating the manner or circumstances in, or the conditions subject to, which anything permitted by such licence or written permission is to be or may be done, or where the Board or the civil area committee, as the case may be, is satisfied that such licence or written permission has been secured by the holder through misrepresentation or fraud, the Board or the civil area committee,

as the case may be, may, without prejudice to any other penalty which may have been incurred under this Act, by order in writing, cancel the licence or written permission or suspend it for such period as it thinks fit:

Provided that no such order shall be made unless an opportunity has been given to the holder of the licence or written permission to show cause why it should not be made.

Recovery of amount payable in respect of damage to cantonment property.

336. Where any person has incurred a penalty by reason of having caused any damage to the property of a Board, he shall be liable to make good such damage, and the amount payable in respect of the damage shall, in case of dispute, be determined by the Judicial Magistrate by whom the person incurring such penalty is convicted, and, on non-payment of such amount on demand, the same shall be recovered either by the distress and sale of the movable property of such person, or by the attachment and sale of the immovable property of that person, or by both these methods and the Judicial Magistrate shall recover the amount in accordance with the provisions of sections 421 and 422 of the Code of Criminal Procedure, 1973 as if it were a fine recoverable under a sentence passed by him. 2 of 1974.

Limitation

Limitation for prosecution.

337. No court shall try any person for an offence made punishable by or under this Act, after the expiry of six months from the date of the commission of the offence, unless complaint in respect of the offence has been made to a Judicial Magistrate within the six months aforesaid.

Suits

Protection of action of Board, etc.

338. No suit or prosecution shall be entertained in any court against a Board or against the Chief Executive Officer, the Officer Commanding a station, Defence Estates Officer, Principal Director, General Officer Commanding in Chief, the Command, Director General Defence Estates, or against any member of a Board, or against any officer or employee of a Board, for anything which is in good faith done or intended to be done, under this Act or any rule or bye-law made thereunder.

Notice to be given of suits.

339. (*1*) No suit shall be instituted against any Board or against any member of a Board, or against any officer or employee of a Board, in respect of any act done, or purporting to have been done, in pursuance of this Act or of any rule or bye-law made thereunder, until the expiration of two months after notice in writing has been left at the office of the Board, and, in the case of such member, officer or employee, unless notice in writing has also been delivered to him or left at his office or place of abode, and unless such notice states explicitly the cause of action, the nature of the relief sought, the amount of compensation claimed, and the name and place of abode of the intending plaintiff, and unless the plaint contains a statement that such notice has been so delivered or left.

(*2*) If the Board or member, officer or employee has, before the suit is instituted, tendered sufficient amounts to the plaintiff, the plaintiff shall not recover any sum in excess of the amount so tendered, and shall also pay all costs incurred by the defendant after such tender.

(*3*) No suit, such as is described in sub-section (*1*), shall, unless it is an action for the recovery of immovable property or for a declaration of title thereto, be instituted after the expiry of six months from the date on which the cause of action arises.

(*4*) Nothing in sub-section (*1*) shall be deemed to apply to a suit in which the only relief claimed is an injunction of which the object would be defeated by the giving of the notice or the postponement of the institution of the suit or proceeding.

Appeals and Revision

Appeals from executive orders.

340. (*1*) Any person aggrieved by any order described in the third column of Schedule V may appeal to the appellate authority specified in that behalf in the fourth column of the said Schedule.

(2) The Central Government may, for the purposes of expeditious disposal of the pending appeals, by notification in the Official Gazette, amend Schedule V so as to designate additional appellate authority in the fourth column of the said Schedule.

(3) No such appeal shall be admitted if it is made after the expiry of the period specified in that behalf in the fifth column of the said Schedule.

(4) The period specified as aforesaid shall be computed in accordance with the provisions of the Limitation Act, 1963, with respect to the computation of periods of limitation thereunder. 36 of 1963.

341. (1) Every appeal under section 340 shall be made by petition in writing accompanied by a copy of the order appealed against. Petition of Appeal.

(2) Any such petition may be presented to the authority which made the order against which the appeal is made, and that authority shall be bound to forward it to the appellate authority, and may attach thereto any report which it may desire to make by way of explanation.

342. On the admission of an appeal from an order, other than an order contained in a notice issued under section 144, section 183, section 238, section 273 or section 302, where the appellate authority so directs, all proceedings to enforce the order and all prosecutions for any contravention thereof shall be held in abeyance pending the decision of the appeal, and, if the order is set aside on appeal, disobedience thereto shall not be deemed to be an offence. Suspension of Action Pending Appeal.

343. (1) Where an appeal from an order made by the Board has been disposed of by the District Magistrate, either party to the proceedings may, within thirty days from the date thereof, apply through the General Officer Commanding-in-Chief, the Command to the Central Government, or to such authority as the Central Government may appoint in this behalf for revision of the decision. Revision.

(2) The provisions of this Chapter with respect to appeals shall apply, as far as may be, to the applications for revision made under this section.

(3) The appellate authority shall make endeavours to dispose of the appeal made under section 340 of this Act within a period of ninety days.

344. Save as otherwise provided in section 343, every order of appellate authority shall be final. Finality of the Appellate Orders.

345. No appeal shall be decided under this Chapter unless the appellant has been heard, or has had a reasonable opportunity of being heard in person or through a legal practitioner. Right of appellant to be heard.

CHAPTER XVI

RULES AND BYE-LAWS

346. (1) The Central Government may, after previous publication, make rules to carry out the purposes and objects of this Act. Power to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(a) the manner in which, and the authority to which, application for permission to occupy land belonging to the Government in a cantonment is to be made;

(b) the authority by which such permission may be granted and the conditions to be annexed to the grant of any such permission;

(c) the allotment to a Board of a share of the rents and profits accruing from property entrusted to its management under the provisions of section 63;

(d) the appointment, promotion, transfer, tenure of office, salaries and allowances, provident funds, pensions, gratuities, leave of absence, discipline and other condition of service of employees of Boards;

(*e*) the circumstances in which security shall be demanded from employees of Boards and the amount and nature of such security;

(*f*) the keeping of accounts by Boards and the manner in which such accounts shall be audited and published;

(*g*) the definition of the persons by whom, and the manner in which, money may be paid out of a cantonment fund or cantonment development fund;

(*h*) the preparation of estimates of income and expenditure by Boards and the definition of the persons by whom, and the conditions subject to which, such estimates may be sanctioned;

(*i*) the regulation of the procedure of Committees of Arbitration;

(*j*) the prescribing of registers, statements and forms to be used and maintained by any authority for the purposes of this Act;

(*k*) the grant of leave to the members of the Board;

(*l*) the form of notices required to be sent under this Act and the manner of their service; and

(*m*) any other matter which is required to be, or may be prescribed.

Supplemental provisions respecting rules.

347. (*1*) A rule under section 346 may be made either generally for all cantonments or for the whole or any part of any one or more cantonments.

(*2*) The power to make rules under clause (*c*) of sub-section (*2*) of section 346 shall include power to give retrospective effect from a date not earlier than the date of commencement of the Cantonments Act, 2006, to the rules or any of them but no retrospective effect shall be given to any rule so as to prejudicially affect the interests of any person to whom such rule may be applicable :

Provided that where any rule has to be given retrospective operation, the reasons therefor and the effect of giving such retrospective operation shall be published along with the draft of the rules when such draft is published for eliciting public opinion under sub-section (*1*) of section 346.

(*3*) All rules made under this Act shall be published in the Official Gazette and in such other manner, if any, as the Central Government may direct and, on such publication, shall have effect as if enacted in this Act.

(*4*) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Power to make bye-laws.

348. Subject to the provisions of this Act and of the rules made thereunder, a Board may, in addition to any bye-laws which it is empowered to make by any other provision of this Act, make bye-laws to provide for all or any of the following matters in the cantonment, namely :—

(*1*) the registration of births, deaths and marriages, and the taking of a census;

(*2*) the enforcement of compulsory vaccination and inoculation and levy of fees where such vaccination or inoculation is carried out at the houses of residents;

(*3*) the regulation of the collection and recovery of taxes, tolls and fees under this Act and the refund of taxes;

(*4*) the regulation of any description of traffic in the streets and the enforcement of measures for the reduction of noise caused thereby or the prohibition of any description of such traffic;

(*5*) the manner in which vehicles standing, driven, led or propelled in the streets between sunset and sunrise shall be lighted;

(*6*) the seizure and confiscation of ownerless animals straying within the limits of the cantonments and regulation and control of cattle pounds;

(*7*) the prevention and extinction of fire;

(*8*) the construction of scaffolding for building operations to secure the safety of the general public and of persons working thereon;

(*9*) the regulation in any manner not specifically provided for in this Act of the construction, alteration, maintenance, preservation, cleaning and repairs of drains, ventilation-shafts, pipes, water-closets, privies, latrines, urinals, cesspools and other drainage works;

(*10*) the regulation or prohibition of the discharge into, or deposit in, drains of sewage, polluted water and other offensive or obstructive matter;

(*11*) the regulation or prohibition of the stabling or herding of animals, or of any class of animals, so as to prevent danger to public health;

(*12*) the proper disposal of corpses, the regulation and management of burial and burning places and other places for the disposal of corpses, and the fees chargeable for the use of such places where the same are provided or maintained by Government or at the expense of the cantonment fund;

(*13*) the permission, regulation or prohibition of the use or occupation of any street or place by itinerant vendors or by any person for the sale of articles or the exercise of any calling or the setting up of any booth or stall, and the fees chargeable for such use or occupation;

(*14*) the regulation and control of encamping grounds, sarais, hotels, dak-bangalows, lodging-houses, boarding-houses, buildings let in tenements, residential clubs, restaurants, eating-houses, cafes, refreshment-rooms, guest houses, holiday resorts, cinemas and places of public recreation, entertainment or resort;

(*15*) the regulation of the ventilation, lighting, cleansing, drainage and water-supply of the buildings used for the manufacture or sale of aerated or other potable waters and of butter, milk, sweetmeats and other articles of food or drink for human consumption;

(*16*) the matters regarding which conditions may be imposed by licences granted under section 295 or section 277;

(*17*) the control and supervision of places where dangerous or offensive trades are carried on so as to secure cleanliness therein or to minimise any injurious, offensive or dangerous effects arising or likely to arise therefrom;

(*18*) the regulation of the erection of any enclosure, fence, tent, awning or other temporary structure of whatsoever material or nature on any land situated within the cantonment and the fees chargeable in respect thereof;

(*19*) the laying out of streets, and the regulation and prohibition of the erection of buildings without adequate provision being made for the laying out and location of streets;

(*20*) the form of and the particulars which shall be contained in a development scheme or an improvement scheme and the manner in which such scheme shall be framed or altered and levy of development charges;

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(*21*) the regulation of the use of public parks and gardens and other public places, and the protection of avenues, trees, grass and other appurtenances of streets and other public places;

(*22*) the regulation of the grazing of animals and the fees chargeable in respect thereof;

(*23*) the fixing and regulation of the use of public bathing and washing places;

(*24*) the regulation of the posting of bills and advertisment, and of the position, size, shape or style or name-boards, sign-boards and sign-posts;

(*25*) the fixation of a method for the sale of articles whether by measure, weight, piece or any other method;

(*26*) the rendering necessary of licences within the cantonment for—

(*a*) persons working as job porters for the conveyance of goods;

(*b*) animals or vehicles let out on hire or used for hawking articles;

(*c*) the proprietors or drivers of vehicles, boats or other conveyances, or of animals kept or plying for hire or used for hawking articles;

(*d*) persons impelling or carrying such vehicles or other conveyances; or

(*e*) persons practising as nurses, midwives or *dais*;

(*27*) the prescribing of the fee payable for any licence required under clause (26), and of the conditions subject to which such licences may be granted, revised, suspended or withdrawn;

(*28*) the regulation of the charges to be made for the services of such job porters and of the hire of such animals, vehicles or other conveyances, and for the remuneration of persons impelling or carrying such vehicles or conveyances as are referred to in clause (26);

(*29*) the prescribing of fee payable for any licence except as otherwise specifically provided in the Act, sanction or for any written permission granted by the Chief Executive Officer;

(*30*) the regulation or prohibition, for purposes of sanitation or the prevention of disease or the promotion of public safety or convenience, of any act which occasions or is likely to occasion a nuisance, and for the regulation or prohibition of which no provision is made elsewhere by or under this Act;

(*31*) the circumstances and the manner in which owners of buildings or land in the cantonment, who are temporarily absent from, or are not resident in, the cantonment, may be required to appoint as their agents, for all or any of the purposes of this Act of any rule or bye-law made thereunder, persons residing within or near the cantonment;

(*32*) the prevention of the spread of infectious or contagious diseases within the cantonment;

(*33*) the segregation in, or the removal and exclusion from, the cantonment, or the destruction, of animals suffering from or reasonably suspected to be suffering from any infectious or contagious disease;

(*34*) the supervision, regulation, conservation and protection from injury, contamination or trespass of sources and means of public water-supply and of appliances for the distribution of water whether within or without the limits of the cantonment;

(*35*) the manner in which connections with water-works may be constructed or maintained, and the agency which shall or may be employed for such construction and maintenance;

(*36*) the regulation of all matters and things relating to the supply and use of water including the collection and recovery of charges therefor and the prevention of evasion of the same;

(*37*) the maintenance of schools, and the furtherance of education generally;

(*38*) the regulation or prohibition of the cutting or destruction of trees or shrubs, or of the making of excavations, or of the removal of soil or quarrying, where such regulation or prohibition appears to the Board to be not prejudicial to the maintenance of ecological balance and to be necessary for the maintenance of a water-supply, the preservation of the soil, the prevention of landscape or of the formation of ravines or torrents, or the protection of land against erosion, or against the deposit thereon of sand, gravel or stones;

(*39*) the rendering necessary of licences for the use of premises within the cantonment as stables, kennels, sites or cowhouses or as accommodation for sheep, goats or fowls;

(*40*) the control of the use in the cantonment of mechanical whistles, sirens or trumpets;

(*41*) the regulation of supply of copies of official document and prescribing the fee payable in respect thereof;

(*42*) the regulation of permission for granting licence for use of loud-speakers and prescribing the fee payable in respect thereof;

(*43*) the conservation and maintenance of ancient and historical monuments, archaeological sites and remains or place of public importance in the cantonment; and

(*44*) generally for the regulation of the administration of the cantonment under this Act.

Penalty for breach of bye-laws.

349. (*1*) Any bye-law made by a Board under this Act may provide that a contravention thereof shall be punishable—

(*a*) with fine which may extend to five thousand rupees; or

(*b*) with fine which may extend to five thousand rupees and, in the case of a continuing contravention, with an additional fine which may extend to five hundred rupees for every day during which such contravention continues after conviction for the first such contravention; or

(c) with fine which may extend to one hundred fifty rupees for every day during which the contravention continues after the receipt of a notice from the Board or Chief Executive Officer by the person contravening the bye-law requiring such person to discontinue such contravention.

(*2*) Any such bye-law may also provide that a person contravening the same shall be required to remedy, so far as lies in his power, the damage or mischief, if any, caused by such contravention.

Supplemental provisions regarding bye-laws and regulations.

350. (*1*) Any power to make bye-laws conferred by this Act is conferred subject to the conditions of bye-laws being made after previous publication and of their not taking effect until they have been approved and confirmed by the Central Government and published in the Official Gazette.

(*2*) The Central Government in confirming a bye-law may make any change therein which appears to it to be necessary.

(*3*) The Central Government may, after previous publication of its intention, cancel any bye-law which it has confirmed, and thereupon the bye-law shall cease to have effect.

(4) Every bye-law and Regulation made under this Act and every order made under sub-section (3) shall be laid as soon as may be after it is made, before each House of Parliament while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the bye-law and Regulation, or order or both Houses agree that the bye-law and Regulation, or order should not be made, the bye-law and Regulation, or order shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that bye-law and Regulation or order.

Rules and bye-laws to be available for inspection and purchase.

351. (1) A copy of all rules and bye-laws made under this Act shall be kept at the office of the Board and shall, during office hours, be open free of charge to inspection by any inhabitant of the cantonment.

(2) Copies of all such rules and bye-laws shall be kept at the office of the Board and shall be sold to the public at cost price singly, or in collection at the option of the purchaser.

CHAPTER XVII
SUPPLEMENTAL PROVISIONS

Extension of certain provisions of the Act and rules to place beyond cantonments.

352. The Central Government may, by notification in the Official Gazette, and subject to any conditions as to compensation or otherwise which thinks fit to impose, extend to any area beyond a cantonment and in the vicinity thereof, with or without restriction or modification, any of the provisions of Chapters VIII to XV or of any rule or bye-law made under this Act for the cantonment which relates to the subject-matter of any of those Chapters, and every enactment, rule or bye-law so extended shall thereupon apply to that area as if the area were included in the cantonment.

Power to delegate functions to the President, etc.

353. (1) The Board may, by a resolution passed in this behalf, delegate to the President, Vice–President, Chief Executive Officer or Health Officer, subject to such conditions, if any, as may be specified in the resolution, all or any of its functions under clause (b) of sub-section (5) of section 290, section 168, section 170, section 175, section 167, section 263 and section 264.

(2) The civil area committee may, by passing a similar resolution, delegate subject to such conditions, if any, as may be specified in such resolution, all or any of its functions to the Vice–President, Chief Executive Officer or Health Officer.

Registration.

354. (1) Paragraphs 2 and 3 of section 54, and section 59, 107 and 123 of the Transfer of Property Act, 1882, with respect to the transfer of property by registered instrument, shall, on and from the commencement of this Act, extend to every cantonment. 4 of 1882.

(2) The Registrar or Sub-Registrar of the district or sub-district formed for the purposes of the Registration Act, 1908, in which any cantonment is situated, shall, when any document relating to immovable property within the cantonment is registered, send information of the registration forthwith to the Chief Executive Officer and the Defence Estates Officer and such other authority as the Central Government may prescribe in this behalf. 16 of 1908.

Validity of notices and other documents.

355. No notice, order, requisition, licence, permission in writing or other such document issued under this Act shall be invalid merely by reason of any defect of form.

Admissibility of document or entry as evidence.

356. A copy of any receipt, application, plan, notice, order or other document or of any entry in a register, in the possession of a Board shall, if duly certified by the legal keeper thereof or other person authorised by the Chief Executive Officer in this behalf, be admissible in evidence of the existence of the document or entry, and shall be admitted as evidence of the matters and transactions therein recorded in every case where, and to the same extent to which, the original documents or entry would, if produced, have been admissible to prove such matters.

357. No officer or employee of a Board shall, in any legal proceeding to which the Board is not party, be required to produce any register or document the contents of which can be proved under section 356 by a certified copy, or to appear as a witness to prove any matter or transaction recorded therein save by order of the court made for special cause. **Evidence by officer or employee of the Board.**

358. For the purposes of the Government Buildings Act, 1899, cantonments and Boards shall be deemed to be municipalities and municipal authorities respectively and the references to the State Government in section 4 of that Act shall be construed as references to the Central Government. **Application of Act 4 of 1899.**

359. (*1*) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as appear to it to be necessary for removing the difficulty: **Power to remove difficulties.**

Provided that no such order shall be made after the expiry of a period of two years from the date of commencement of this Act.

(*2*) Every order made under sub-section (*1*) shall be laid, as soon as may be after it is made, before each House of Parliament.

2 of 1924. **360.** (*1*) The Cantonments Act, 1924 is hereby repealed. **Repeals and savings.**

2 of 1924. (*2*) Notwithstanding the repeal of the Cantonments Act, 1924,—

(*a*) any appointment, notification, order, scheme, rule, form, notice or bye-law made or issued, and any licence or permission granted under the Act shall, in so far as it is not inconsistent with the provisions of this Act continue in force and be deemed to have been made, issued or granted, under the provisions of this Act, unless and until it is superseded by any appointment, notification, order, scheme, rule, form, notice or bye-law made or issued or any licence or permission granted under the said provisions;

(*b*) all debts, obligations and liabilities incurred, all contracts entered into and all matters and things engaged to be done by, with or for the Board shall be deemed to have been incurred, entered into or engaged to be done by, with or for the Board constituted under this Act;

(*c*) all budget estimates, assessments, valuations, measurements or divisions made by the Board shall in so far as they are not inconsistent with the provisions of this Act, continue in force and be deemed to have been made under the provisions of this Act unless and until they are superseded by any budget estimate, assessment, valuation, measurement or division made by the Board constituted under the said provisions;

(*d*) all properties, movable and immovable and all interests of whatsoever nature and kind therein, vested in the Board shall with all rights of whatsoever description, use, enjoyed or possessed by the said Board vest in the Board constituted under this Act;

(*e*) all rates, taxes, fees, rents and other sums of money due to the Board shall be deemed to be due to the Board constituted under this Act;

(*f*) all rates, taxes, fees, rents, fares and other charges shall, until and unless they are varied by the Board constituted under this Act, continue to be levied at the same rate at which they were being levied by the Board immediately before the commencement of this Act;

(*g*) all suits, prosecutions and other legal proceedings instituted or which might have been instituted by or against the Board may be continued or instituted by or against the Board constituted under this Act.

SCHEDULE I
(*See* section 100)
NOTICE OF DEMAND

To

residing at

Taking notice that the Board demands from.....the sum of ..... due from .....on account of .....(here describe the property, occupation, circumstance or thing in respect of which the sum is payable) leviable under ..... for the period of ..... Commencing on the ..... day of .....20....., and ending on the .....day of .....20....., and that if, within thirty days from the service of this notice, the said sum is not paid to the Board at..... or sufficient cause for non-payment is not shown to the satisfaction of the Chief Executive Officer, warrant of distress/attachment* will be issued for the recovery of the same with costs.

Dated this.....day of .....20.....

(Signed)

Chief Executive Officer,
Cantonment.

[*Strike out whichever is not applicable.]

SCHEDULE II

(*See* section 101)

FORM OF WARRANT

(Here insert the name of the officer charged with the execution of warrant)

Whereas A.B. of ..... has not paid, and has not shown satisfactory cause for the non-payment of, the sum of ..... due on account of.....*..... for the period of.....commencing on the day of.....20..... and ending with the ..... day of .....20.....which sum is leviable under.....

And whereas thirty days have elapsed since the service on him of notice of demand for the same.

This is to command you to [distraint/attach#] subject to the provisions of the Cantonments Act, 2006, the [movable/immovable#] property of the said A.B. to the amount of the said sum of Rs.....; and forthwith to certify to me, together with this warrant, all particulars of the property [seized/attached #] by you thereunder.

Dated this .....day of .....20.....

(Signed)

Chief Executive Officer,
Cantonment

*Here describe the liability.

Strike out whichever is not applicable.

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SCHEDULE III

(*See* section 103)

FORM OF INVENTORY OF PROPERTY DISTRAINED AND NOTICE OF SALE

To,

residing at .....

Take notice that I have this day seized the property specified in the inventory annexed hereto, for the value of.....due for the liability* mentioned in the margin for the period commencing with.....day of .....20..... and ending with the .....day of.....20....., together with Rs..... due for service of notice of demand, and that, unless within seven days from the date of the service of this notice you pay to the Board the said amount, together with the costs of recovery, the said property will be sold by public auction.

Dated this .....day of .....20.....

(Signature of officer executing the warrant.)

INVENTORY

(Here state particulars of property seized).

*Here describe the liability.

SCHEDULE IV

(*See* section 314)

CASES IN WHICH POLICE MAY ARREST WITHOUT WARRANT

PART A

Section	Subject
174	Making or selling of food, etc., or washing of clothes, by infected person.
289(1)(a)(i)	Drunkenness, etc.

PART B

183(1)	Remaining in, or re-entering, cantonment after notice of expulsion for failure to attend hospital or dispensary.
259	Destroying, etc., name of street or number affixed to building.
282	Feeding animal on filth, etc.
289(1)(a)(ii)	Using threatening or abusive words, etc.
289(1)(a)(iii)	Indecent exposure of person, etc.
289(1)(a)(iv)	Begging.
289(1)(a)(v)	Exposing deformity, etc.
289(1)(a)(vii)	Gaming.
289(1)(a)(xii)	Destroying notice, etc.
289(1)(a)(xiii)	Displaces, damages, alters, pavements, gutter, stormwater drain.
289(1)(f)	Keeping common gaming-house, etc.
289(1)(g)	Beating drum, etc.
289(1)(h)	Singing, etc., so as to disturb public peace or order.
290(6)	Setting loose, or setting on, ferocious dog.
296	Discharging fire-arms, etc., so as to cause danger.
300	Loitering or importuning for sexual immorality.
304(a)	Remaining in, or returning to, a cantonment after notice of expulsion.

SCHEDULE V

APPEALS FROM EXECUTIVE ORDERS

(*See* section 340)

S. No.	Section	Executive Order	Appellate Authority	Time allowed for appeal
1	2	3	4	5
1.	2 (zc)	Declaring 'inhabitant'	District Magistrate	Fifteen days
2.	137	Notice to fill up well, tank, etc., or to drain off or remove water.	Principal Director	Thirty days from service of notice.
3.	138	Notice requiring the owner to provide latrine, urinal, cesspool dust-bin or other receptacle.	Board	Fifteen days from service of notice.
4.	139	Notice requiring provision of sanitary facilities in market, school, theatre or other place of public resort.	Board	Fifteen days from service of notice.
5.	142	Notice for removal of congested building.	General Officer Commanding-in-Chief, the Command	Thirty days from service of notice.
6.	144	Notice requiring a building to be repaired or altered so as to remove sanitary defects.	Principal Director	Thirty days from service of notice.
7.	147	Notice prohibiting owner or occupier to use a building or part of a building for human habitation.	Principal Director	Twenty-one days from service of notice.
8.	183	Order directing a person to remove from the Cantonment and prohibiting him from re-entering it without permission.	General Officer Commanding-in-Chief, the Command	Thirty days from service of notice.
9.	190	Notice requiring maintenance or closing of private source of public drinking water supply.	Board	Fifteen days from service of notice.
10.	192	Notice requiring the owner, lessee or occupier of a building or land to obtain water from a source of public water supply.	Board	Fifteen days from service of notice.
11.	195	Notice for cutting off the connection between any source of public water supply and any building or land to which water is supplied.	Board	Fifteen days from service of notice.
12.	238	(a) Refusal to sanction the erection or re-erection of a building in a civil area.	Principal Director	Thirty days from service of communication.
		(b) Refusal to sanction the erection or re-erection of a building in a Cantonment (Other than a civil area).	General Officer Commanding-in-Chief, the Command	Thirty days from service of communication.

1	2	3	4	5
13.	239	Order of stoppage of building or works in certain cases.	Board	Thirty days from service of communication.
14.	248	(a) Notice to stop erection or re-erection of, or to alter or demolish, a building in a civil area.	Principal Director	Thirty days from service of communication.
		(b) Notice to stop erection or re-erection of, or to alter or demolish, a building in a Cantonment (Other than a civil area).	General Officer Commanding-in-Chief, the Command	Thirty days from service of communication.
15.	252	Notice requiring the owner or the occupier to alter or remove any projection or encroachment.	Board	Thirty days from service of notice.
16.	253	Notice to pull down or otherwise deal with a building newly erected or re-built without permission over a sewer, drain, culvert, water course or water-pipe.	Board	Thirty days from service of notice.
17.	273	Notice prohibiting or restricting the use of a slaughter-house.	Board	Twenty-one days from service of notice.
18.	297	Notice to remove, repair, protect, or enclose a building, wall or anything affixed thereto, or well, tank, reservoir, pool, depression or excavation.	Board	Thirty days from service of notice.
19.	302	Notice directing disorderly person to remove from cantonment and prohibiting him from re-entering it without permission.	District Magistrate	Thirty days from service of notice.

Sd/-
K. N. CHATURVEDI,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

H. D. VYAS,
Secretary to Government.

Government Central Press, Gandhinagar.

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PART VI

Acts of Parliament and Ordinances promulgated by the President

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 29th January, 2007.

No. RPB/9-2007/Act-39-06/E :—The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 4th September, 2006/Bhadra 13, 1928 (Saka)

The following Act of Parliament has received the assent of the President on the 3rd September, 2006, is hereby published for general information :-

THE WILD LIFE (PROTECTION) AMENDMENT ACT, 2006

AN ACT

(Act No. 39 of 2006) (3rd September, 2006)

further to amend the Wild Life (Protection) Act, 1972.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows :-

Short title and commencement.

1. *(1)* This Act may be called the Wild Life (Protection) Amendment Act, 2006.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette appoint.

INDEX

Insertion of new Chapters IVB and IVC.

2. After Chapter IVA of the Wild Life (Protection) Act, 1972 (hereinafter referred to as the principal Act), the following Chapters shall be inserted, namely:— 53 of 1972.

'CHAPTER IVB

NATIONAL TIGER CONSERVATION AUTHORITY

Definitions.

38K. In this Chapter,—

(a) "National Tiger Conservation Authority" means the Tiger Conservation Authority constituted under section 38L;

(b) "Steering Committee" means the Committee constituted under section 38U;

(c) "Tiger Conservation Foundation" means the foundation established under section 38X;

(d) "tiger reserve State" means a State having tiger reserve;

(e) "tiger reserve" means the areas notified as such under section 38V.

Constitution of National Tiger Conservation Authority.

38L. (1) The Central Government shall constitute a body to be known as the National Tiger Conservation Authority (hereinafter in this Chapter referred to as the Tiger Conservation Authority), to exercise the powers conferred on, and to perform the functions assigned to it under this Act.

(2) The Tiger Conservation Authority shall consist of the following members, namely:—

(a) the Minister in charge of the Ministry of Environment and Forests—Chairperson;

(b) the Minister of State in the Ministry of Environment and Forests—Vice-Chairperson;

(c) three members of Parliament of whom two shall be elected by the House of the People and one by the Council of States;

(d) eight experts or professionals having prescribed qualifications and experience in conservation of wild life and welfare of people living in tiger reserve out of which at least two shall be from the field of tribal development;

(e) Secretary, Ministry of Environment and Forests;

(f) Director General of Forests and Special Secretary, Ministry of Environment and Forests;

(g) Director, Wild Life Preservation, Ministry of Environment and Forests;

(h) six Chief Wild Life Wardens from the tiger reserve States in rotation for three years;

(i) an officer not below the rank of Joint Secretary and Legislative Counsel from the Ministry of Law and Justice;

(j) Secretary, Ministry of Tribal Affairs;

(k) Secretary, Ministry of Social Justice and Empowerment;

(l) Chairperson, National Commission for the Scheduled Tribes;

(m) Chairperson, National Commission for the Scheduled Castes;

(n) Secretary, Ministry of Panchayati Raj;

(o) Inspector-General of Forests or an officer of the equivalent rank having at least ten years experience in a tiger reserve or wildlife management, who shall be the Member-Secretary,

to be notified by the Central Government, in the Official Gazette.

(3) It is hereby declared that the office of member of the Tiger Conservation Authority shall not disqualify its holder for being chosen as, or for being, a member of either House of Parliament.

38M. (1) A member nominated under clause (d) of sub-section (2) of section 38L shall hold office for such period not exceeding three years:

Term of office and conditions of service of members.

Provided that a member may, by writing under his hand addressed to the Central Government, resign from his office.

(2) The Central Government shall remove a member referred to in clause (d) of sub-section (2) of section 38L, from office if he—

(a) is, or at any time has been, adjudicated as insolvent;

(b) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude;

(c) is of unsound mind and stands so declared by a competent court;

(d) refuses to act or becomes incapable of acting;

(e) is, without obtaining leave of absence from the Tiger Conservation Authority, absent from three consecutive meetings of the said Authority; or

(f) has, in the opinion of the Central Government, so abused his position as to render his continuation in office detrimental to the public interest:

Provided that no member shall be removed under this sub-section unless he has been given a reasonable opportunity of being heard in the matter.

(3) Any vacancy in the office of a member shall be filled by fresh appointment and such member shall continue for the remainder of the term of the member in whose place he is appointed.

(4) The salaries and allowances and other conditions of appointment of the members of the Tiger Conservation Authority shall be such as may be prescribed.

(5) No act or proceeding of the Tiger Conservation Authority shall be questioned or shall be invalid on the ground merely of the existence of any vacancy or defect in the constitution of the Tiger Conservation Authority.

38N. (1) The Tiger Conservation Authority may, with the previous sanction of the Central Government, appoint such other officers and employees as it considers necessary for the efficient discharge of its functions under this Act:

Officers and employees of Tiger Conservation Authority.

Provided that the officers and employees holding office under the Directorate of Project Tiger and dealing with Project Tiger immediately before the date of constitution of the Tiger Conservation Authority shall continue to hold office in the said Authority by the same tenure and upon the same terms and conditions of service or until the expiry of the period of six months from that date if such employee opts not to be the employee of that Authority.

(2) The terms and conditions of service of the officers and other employees of the Tiger Conservation Authority shall be such as may be prescribed.

38-O. (1) The Tiger Conservation Authority shall have the following powers and perform the following functions, namely:—

Powers and functions of Tiger Conservation Authority.

(a) to approve the Tiger Conservation Plan prepared by the State Government under sub-section (3) of section 38V of this Act;

(b) evaluate and assess various aspects of sustainable ecology and disallow any ecologically unsustainable land use such as, mining, industry and other projects within the tiger reserves;

(c) lay down normative standards for tourism activities and guidelines for project tiger from time to time for tiger conservation in the buffer and core area of tiger reserves and ensure their due compliance;

(d) provide for management focus and measures for addressing conflicts of men and wild animals and to emphasise on co-existence in forest areas outside the National Parks, sanctuaries or tiger reserve, in the working plan code;

(*e*) provide information on protection measures including future conservation plan, estimation of population of tiger and its natural prey species, status of habitats, disease surveillance, mortality survey, patrolling, reports on untoward happenings and such other management aspects as it may deem fit including future plan conservation;

(*f*) approve, co-ordinate research and monitoring on tiger, co-predators, prey, habitat, related ecological and socio-economic parameters and their evaluation;

(*g*) ensure that the tiger reserves and areas linking one protected area or tiger reserve with another protected area or tiger reserve are not diverted for ecologically unsustainable uses, except in public interest and with the approval of the National Board for Wild Life and on the advice of the Tiger Conservation Authority;

(*h*) facilitate and support the tiger reserve management in the State for biodiversity conservation initiatives through eco-development and people's participation as per approved management plans and to support similar initiatives in adjoining areas consistent with the Central and State laws;

(*i*) ensure critical support including scientific, information technology and legal support for better implementation of the tiger conservation plan;

(*j*) facilitate ongoing capacity building programme for skill development of officers and staff of tiger reserves; and

(*k*) perform such other functions as may be necessary to carry out the purposes of this Act with regard to conservation of tigers and their habitat.

(*2*) The Tiger Conservation Authority may, in the exercise of its powers and performance of its functions under this Chapter, issue directions in writing to any person, officer or authority for the protection of tiger or tiger reserves and such person, officer or authority shall be bound to comply with the directions:

Provided that no such direction shall interfere with or affect the rights of local people particularly the Scheduled Tribes.

Procedure to be regulated by Tiger Conservation Authority.

38P. (*1*) The Tiger Conservation Authority shall meet at such time and at such place as the Chairperson may think fit.

(*2*) The Chairperson or in his absence the Vice-Chairperson shall preside over the meetings of the Tiger Conservation Authority.

(*3*) The Tiger Conservation Authority shall regulate its own procedure.

(*4*) All orders and decisions of the Tiger Conservation Authority shall be authenticated by the Member-Secretary or any other officer of the said Authority duly authorised by the Member-Secretary in this behalf.

Grants and loans toTiger Conservation Authority and constitution of Fund.

38Q. (*1*) The Central Government may, after due appropriation made by Parliament by law in this behalf, make to the Tiger Conservation Authority grants and loans of such sums of money as that Government may consider necessary.

(*2*) There shall be constituted a Fund to be called the Tiger Conservation Authority Fund and there shall be credited thereto—

(*i*) any grants and loans made to the Tiger Conservation Authority by the Central Government;

(*ii*) all fees and charges received by the Tiger Conservation Authority under this Act; and

(*iii*) all sums received by the Authority from such other sources as may be decided upon by the Central Government.

(*3*) The Fund referred to in sub-section (*2*) shall be applied for meeting salary, allowances and other remuneration of the members, officers and other employees of the Tiger Conservation Authority and the expenses of the Tiger Conservation Authority incurred in the discharge of its functions under this Chapter.

38R. (*1*) The Tiger Conservation Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

Accounts and audit of Tiger Conservation Authority.

(*2*) The accounts of the Tiger Conservation Authority shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Tiger Conservation Authority to the Comptroller and Auditor-General of India.

(*3*) The Comptroller and Auditor-General of India and any other person appointed by him in connection with the audit of the accounts of the Tiger Conservation Authority shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of the Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect the office of the Tiger Conservation Authority.

(*4*) The accounts of the Tiger Conservation Authority as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon, shall be forwarded annually to the Central Government by the Tiger Conservation Authority.

38S. The Tiger Conservation Authority shall prepare in such form and at such time, for each financial year, as may be prescribed, its annual report, giving a full account of its activities during the previous financial year and forward a copy thereof to the Central Government.

Annual report of Tiger Conservation Authority.

38T. The Central Government shall cause the annual report together with a memorandum of action taken on the recommendations contained therein, in so far as they relate to the Central Government, and the reasons for the non-acceptance, if any, of any of such recommendations, and the audit report to be laid, as soon as may be after the reports are received, before each House of Parliament.

Annual report and audit report to be laid before Parliament.

38U. (*1*) The State Government may constitute a Steering Committee for ensuring co-ordination, monitoring, protection and conservation of tiger, co-predators and prey animals within the tiger range States.

Constitution of Steering Committee.

(*2*) The Steering Committee shall consists of—

(*a*) the Chief Minister — Chairperson;

(*b*) the Minister in-charge of Wild Life — Vice-Chairperson;

(*c*) such number of official members not exceeding five including at least two Field Directors of tiger reserve or Director of National Park and one from the State Government's Departments dealing with tribal affairs;

(*d*) three experts or professionals having qualifications and experience in conservation of wild life of which at least one shall be from the field of tribal development;

(*e*) two members from the State's Tribal Advisory Council;

(*f*) one representative each from State Government's Departments dealing with Panchayati Raj and Social Justice and Empowerment;

(*g*) Chief Wild Life Warden of the State shall be the Member-Secretary, *ex officio*;

to be notified by the State Government, in the Official Gazette.

Tiger Conservation Plan.

38V. (*1*) The State Government shall, on the recommendation of the Tiger Conservation Authority, notify an area as a tiger reserve.

(*2*) The provisions of sub-section (*2*) of section 18, sub-sections (*2*), (*3*) and (*4*) of section 27, sections 30, 32 and clauses (*b*) and (*c*) of section 33 of this Act shall, as far as may be, apply in relation to a tiger reserve as they apply in relation to a sanctuary.

(*3*) The State Government shall prepare a Tiger Conservation Plan including staff development and deployment plan for the proper management of each area referred to in sub-section (*1*), so as to ensure—

(*a*) protection of tiger reserve and providing site specific habitat inputs for a viable population of tigers, co-predators and prey animals without distorting the natural prey-predator ecological cycle in the habitat;

(*b*) ecologically compatible land uses in the tiger reserves and areas linking one protected area or tiger reserve with another for addressing the livelihood concerns of local people, so as to provide dispersal habitats and corridor for spill over population of wild animals from the designated core areas of tiger reserves or from tiger breeding habitats within other protected areas;

(*c*) the forestry operations of regular forest divisions and those adjoining tiger reserves are not incompatible with the needs of tiger conservation.

(*4*) Subject to the provisions contained in this Act, the State Government shall, while preparing a Tiger Conservation Plan, ensure the agricultural, livelihood, developmental and other interests of the people living in tiger bearing forests or a tiger reserve.

Explanation.— For the purposes of this section, the expression "tiger reserve" includes—

(*i*) core or critical tiger habitat areas of National Parks and sanctuaries, where it has been established, on the basis of scientific and objective criteria, that such areas are required to be kept as inviolate for the purposes of tiger conservation, without affecting the rights of the Scheduled Tribes or such other forest dwellers, and notified as such by the State Government in consultation with an Expert Committee constituted for the purpose;

(*ii*) buffer or peripheral area consisting of the area peripheral to critical tiger habitat or core area, identified and established in accordance with the provisions contained in *Explanation* (*i*) above, where a lesser degree of habitat protection is required to ensure the integrity of the critical tiger habitat with adequate dispersal for tiger species, and which aim at promoting co-existence between wildlife and human activity with due recognition of the livelihood, developmental, social and cultural rights of the local people, wherein the limits of such areas are determined on the basis of scientific and objective criteria in consultation with the concerned Gram Sabha and an Expert Committee constituted for the purpose.

(*5*) Save as for voluntary relocation on mutually agreed terms and conditions, provided that such terms and conditions satisfy the requirements laid down in this sub-section, no Scheduled Tribes or other forest dwellers shall be resettled or have their rights adversely affected for the purpose of creating inviolate areas for tiger conservation unless—

(*i*) the process of recognition and determination of rights and acquisition of land or forest rights of the Scheduled Tribes and such other forest dwelling persons is complete;

(*ii*) the concerned agencies of the State Government, in exercise of their powers under this Act, establishes with the consent of the Scheduled Tribes and such other forest dwellers in the area, and in consultation with an ecological and social scientist familiar with the area, that the activities of the Scheduled Tribes and other forest dwellers or the impact of their presence upon wild animals is sufficient to cause irreversible damage and shall threaten the existence of tigers and their habitat;

(*iii*) the State Government, after obtaining the consent of the Scheduled Tribes and other forest dwellers inhabiting the area, and in consultation with an independent ecological and social scientist familiar with the area, has come to a conclusion that other reasonable options of co-existence, are not available;

(*iv*) resettlement or alternative package has been prepared providing for livelihood for the affected individuals and communities and fulfils the requirements given in the National Relief and Rehabilitation Policy;

(*v*) the informed consent of the Gram Sabha concerned, and of the persons affected, to the resettlement programme has been obtained; and

(*vi*) the facilities and land allocation at the resettlement location are provided under the said programme, otherwise their existing rights shall not be interfered with.

Alteration and de-notification of tiger reserves.

38W. (*1*) No alteration in the boundaries of a tiger reserve shall be made except on a recommendation of the Tiger Conservation Authority and the approval of the National Board for Wild Life.

(*2*) No State Government shall de-notify a tiger reserve, except in public interest with the approval of the Tiger Conservation Authority and the National Board for Wild Life.

Establishment of Tiger Conservation Foundation.

38X. (*1*) The State Government shall establish a Tiger Conservation Foundation for tiger reserves within the State in order to facilitate and support their management for conservation of tiger and biodiversity and, to take initiatives in eco-development by involvement of people in such development process.

(*2*) The Tiger Conservation Foundation shall, *inter alia*, have the following objectives:—

(*a*) to facilitate ecological, economic, social and cultural development in the tiger reserves;

(*b*) to promote eco-tourism with the involvement of local stake-holder communities and provide support to safeguard the natural environment in the tiger reserves;

(*c*) to facilitate the creation of, and or maintenance of, such assets as may be necessary for fulfilling the above said objectives;

(*d*) to solicit technical, financial, social, legal and other support required for the activities of the Foundation for achieving the above said objectives;

(*e*) to augment and mobilise financial resources including recycling of entry and such other fees received in a tiger reserve, to foster stake-holder development and eco-tourism;

(*f*) to support research, environmental education and training in the above related fields.

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CHAPTER IV C

TIGER AND OTHER ENDANGERED SPECIES CRIME CONTROL BUREAU

Constitution of Tiger and other Endangered Species Crime Control Bureau.

38Y. The Central Government may, for the purposes of this Act, by order published in the Official Gazette, constitute a Tiger and other Endangered Species Crime Control Bureau to be known as the Wildlife Crime Control Bureau consisting of—

(*a*) the Director of Wildlife Preservation—Director *ex-officio*;

(*b*) the Inspector-General of Police—Additional Director;

(*c*) the Deputy Inspector-General of Police—Joint Director;

(*d*) the Deputy Inspector-General of Forests—Joint Director;

(*e*) the Additional Commissioner (Customs and Central Excise)—Joint Director; and

(*f*) such other officers as may be appointed from amongst the officers covered under sections 3 and 4 of this Act.

Powers and functions of the Wildlife Crime Control Bureau.

38Z. (*1*) Subject to the provisions of this Act, the Wildlife Crime Control Bureau shall take measures with respect to—

(*i*) collect and collate intelligence related to organized wildlife crime activities and to disseminate the same to State and other enforcement agencies for immediate action so as to apprehend the criminals and to establish a centralised wildlife crime data bank;

(*ii*) co-ordination of actions by various officers, State Governments and other authorities in connection with the enforcement of the provisions of this Act, either directly or through regional and border units set up by the Bureau;

(*iii*) implementation of obligations under the various international Conventions and protocols that are in force at present or which may be ratified or acceded to by India in future;

(*iv*) assistance to concerned authorities in foreign countries and concerned international organisations to facilitate co-ordination and universal action for wildlife crime control;

(*v*) develop infrastructure and capacity building for scientific and professional investigation into wildlife crimes and assist State Governments to ensure success in prosecutions related to wildlife crimes;

(*vi*) advice the Government of India on issues relating to wildlife crimes having national and international ramifications, and suggest changes required in relevant policy and laws from time to time.

(*2*) The Wildlife Crime Control Bureau shall exercise—

(*i*) such powers as may be delegated to it under sub-section (*1*) of section 5, sub-sections (*1*) and (*8*) of section 50 and section 55 of this Act; and

(*ii*) such other powers as may be prescribed."

Amendment of section 51.

3. In section 51 of the principal Act, after sub-section (*1B*), the following sub-sections shall be inserted, namely:—

"(*1C*) Any person, who commits an offence in relation to the core area of a tiger reserve or where the offence relate to hunting in the tiger reserve or altering the boundaries of the tiger reserve, such offence shall be punishable on first conviction with imprisonment for a term which shall not be less than three years but may extend to seven years, and also with fine which shall not be less than fifty thousand rupees

but may extend to two lakh rupees; and in the event of a second or subsequent conviction with imprisonment for a term of not less than seven years and also with fine which shall not be less than five lakh rupees but may extend to fifty lakh rupees.

(*1D*) Whoever, abets any offence punishable under sub-section (*1C*) shall, if the act abetted is committed in consequence of the abetment, be punishable with the punishment provided for that offence.".

4. In section 55 of the principal Act, after clause (*aa*), the following clauses shall be inserted, namely:— Amendment of section 55.

"(*ab*) Member-Secretary, Tiger Conservation Authority; or

(*ac*) Director of the concerned tiger reserve; or".

5. In section 59 of the principal Act, after the word, figures and letter "Chapter IVA", the word, figures and letter "Chapter IVB" shall be inserted. Amendment of section 59.

6. In section 60 of the principal Act, in sub-section (*3*), after the word, figures and letter "Chapter IVA", the word, figures and letter "Chapter IVB" shall be inserted. Amendment of section 60.

7. In section 63 of the principal Act, in sub-section (*1*), after clause (*g*), the following clauses shall be inserted, namely:— Amendment of section 63.

"(*gi*) qualifications and experience of experts or professionals under clause (*d*) of sub-section (*2*) of section 38-I;

(*gii*) the salaries and allowances and other conditions of appointment of the members under sub-section (*4*) of section 38M;

(*giii*) the terms and conditions of service of the officers and other employees of the Tiger Conservation Authority under sub-section (*2*) of section 38N;

(*giv*) the form in which the annual statement of accounts of Tiger Conservation Authority shall be prepared under sub-section (*1*) of section 38R;

(*gv*) the form in which and the time at which the annual report of Tiger Conservation Authority shall be prepared under section 38S;

(*gvi*) other powers of the Wild Life Crime Control Bureau under clause (*ii*) of sub-section (*2*) of section 38Z.".

Sd/-
K. N. CHATURVEDI,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

H. D. VYAS,
Secretary to Government.

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PART VI

Acts of Parliament and Ordinances promulgated by the President

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 29th January, 2007.

No. RPB/3-2007/Act-33-06/E :—The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 23rd August, 2006/Bhadra 1, 1928 (Saka)

The following Act of Parliament has received the assent of the President on the 22nd August, 2006, is hereby published for general information :-

THE JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) AMENDMENT ACT, 2006

AN ACT

(Act No. 33 of 2006) (22nd August, 2006)

to amend the Juvenile Justice (Care and Protection of Children) Act, 2000.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows :-

Short title.

1. This Act may be called the Juvenile Justice (Care and Protection of Children) Amendment Act, 2006.

Amendment of long title.

56 of 2000.

2. In the Juvenile Justice (Care and Protection of children) Act, 2000 (hereinafter referred to as the principal Act), in the long title, for the words "through various institutions established under the enactment", the words "and for matters connected therewith or incidental thereto" shall be substituted.

Amendment of section 1.

3. In section 1 of the principal Act,-

(i) in the marginal heading, for the words "and commencement", the words "commencement and application" shall be substituted;

(ii) after sub-section *(3)*, the following sub-section shall be inserted, namely :-

"(4) Notwithstanding anything contained in any other law for the time being in force, the provisions of this Act shall apply to all cases involving detention, prosecution, penalty or sentence of imprisonment of juveniles in conflict with law under such other law".

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Amendment of section 2.

4. In section 2 of the principal Act,—

(*i*) after clause (*a*), the following clause shall be inserted, namely:—

'(*aa*) "adoption" means the process through which the adopted child is permanently separated from his biological parents and become the legitimate child of his adoptive parents with all the rights, privileges and responsibilities that are attached to the relationship;';

(*ii*) in clause (*d*),—

(*I*) after sub-clause (*i*), the following sub-clause shall be inserted, namely:—

"(*ia*) who is found begging, or who is either a street child or a working child,";

(*II*) in sub-clause (*v*), after the word 'abandoned', the words 'or surrendered' shall be inserted;

(*iii*) in clause (*h*), for the words "competent authority", the words "State Government on the recommendation of the competent authority" shall be substituted;

(*iv*) for clause (*l*), the following clause shall be substituted, namely:—

'(*l*) "juvenile in conflict with law" means a juvenile who is alleged to have committed an offence and has not completed eighteenth year of age as on the date of commission of such offence;';

(*v*) clause (*m*) shall be omitted.

Omission of certain expressions.

5. Throughout the principal Act, the words "local authority", "or local authority" and "or the local authority", wherever they occur, shall be omitted.

Amendment of section 4.

6. In section 4 of the principal Act, in sub-section (*1*), for the words "by notification in the Official Gazette, constitute for a district or a group of districts specified in the notification", the words "within a period of one year from the date of commencement of the Juvenile Justice (Care and Protection of Children) Amendment Act, 2006, by notification in the Official Gazette, constitute for every district" shall be substituted.

Amendment of section 6.

7. In section 6 of the principal Act, in sub-section (*1*), the words "or a group of districts" shall be omitted.

Insertion of new section 7A.

8. After section 7 of the principal Act, the following section shall be inserted, namely:—

Procedure to be followed when claim of juvenility is raised before any court.

"7A. (*1*) Whenever a claim of juvenility is raised before any court or a court is of the opinion that an accused person was a juvenile on the date of commission of the offence, the court shall make an inquiry, take such evidence as may be necessary (but not an affidavit) so as to determine the age of such person, and shall record a finding whether the person is a juvenile or a child or not, stating his age as nearly as may be:

Provided that a claim of juvenility may be raised before any court and it shall be recognised at any stage, even after final disposal of the case, and such claim shall be determined in terms of the provisions contained in this Act and the rules made thereunder, even if the juvenile has ceased to be so on or before the date of commencement of this Act.

(*2*) If the court finds a person to be a juvenile on the date of commission of the offence under sub-section (*1*), it shall forward the juvenile to the Board for passing appropriate order, and the sentence if any, passed by a court shall be deemed to have no effect.".

Amendment of section 10.

9. In section 10 of the principal Act, for sub-section (*1*), the following sub-section shall be substituted, namely:—

"(*1*) As soon as a juvenile in conflict with law is apprehended by police, he shall be placed under the charge of the special juvenile police unit or the designated police

officer, who shall produce the juvenile before the Board without any loss of time but within a period of twenty-four hours of his apprehension excluding the time necessary for the journey, from the place where the juvenile was apprehended, to the Board:

Provided that in no case, a juvenile in conflict with law shall be placed in a police lockup or lodged in a jail.".

10. In section 12 of the principal Act, in sub-section (*1*), after the words "with or without surety", the words "or placed under the supervision of a Probation Officer or under the care of any fit institution or fit person" shall be inserted. Amendment of section 12.

11. Section 14 of the principal Act shall be renumbered as sub-section (*1*) thereof, and after sub-section (*1*) as so renumbered, the following sub-section shall be inserted, namely:— Amendment of section 14.

"(*2*) The Chief Judicial Magistrate or the Chief Metropolitan Magistrate shall review the pendency of cases of the Board at every six months, and shall direct the Board to increase the frequency of its sittings or may cause the constitution of additional Boards.".

12. In section 15 of the principal Act, in sub-section (*1*), for clause (*g*), the following clause shall be substituted, namely:— Amendment of section 15.

"(*g*) make an order directing the juvenile to be sent to a special home for a period of three years:

Provided that the Board may, if it is satisfied that having regard to the nature of the offence and the circumstances of the case, it is expedient so to do, for reasons to be recorded, reduce the period of stay to such period as it thinks fit.".

13. In section 16 of the principal Act,— Amendment of section 16.

(*i*) in sub-section (*1*), for the words "or life imprisonment", the words "or imprisonment for any term which may extend to imprisonment for life" shall be substituted;

(*ii*) in sub-section (*2*), for the proviso, the following proviso shall be substituted, namely:—

"Provided that the period of detention so ordered shall not exceed in any case the maximum period provided under section 15 of this Act.".

14. In section 20 of the principal Act, the following proviso and *Explanation* shall be inserted, namely:— Amendment of section 20.

"Provided that the Board may, for any adequate and special reason to be mentioned in the order, review the case and pass appropriate order in the interest of such juvenile.

Explanation.— In all pending cases including trial, revision, appeal or any other criminal proceedings in respect of a juvenile in conflict with law, in any court, the determination of juvenility of such a juvenile shall be in terms of clause (*l*) of section 2, even if the juvenile ceases to be so on or before the date of commencement of this Act and the provisions of this Act shall apply as if the said provisions had been in force, for all purposes and at all material times when the alleged offence was committed.".

15. For section 21 of the principal Act, the following section shall be substituted, namely:— Substitution of new section for section 21.

"21. (*1*) No report in any newspaper, magazine, news-sheet or visual media of any inquiry regarding a juvenile in conflict with law or a child in need of care and protection under this Act shall disclose the name, address or school or any other particulars calculated to lead to the identification of the juvenile or child nor shall any picture of any such juvenile or child be published: Prohibition of publication of name, etc., of juvenile in conflict with law or child in need of care and protection involved in any proceeding under the Act.

Provided that for reasons to be recorded in writing, the authority holding the inquiry may permit such disclosure, if in its opinion such disclosure is in the interest of the juvenile or the child.

(2) Any person who contravenes the provisions of sub-section (1), shall be liable to a penalty which may extend to twenty-five thousand rupees.".

Amendment of section 29.

16. In section 29 of the principal Act, in sub-section (1), for the words "by notification in Official Gazette, constitute for every district, or group of districts specified in the notification", the words "within a period of one year from the date of commencement of the Juvenile Justice (Care and Protection of Children) Amendment Act, 2006, by notification in the Official Gazette, constitute for every district" shall be substituted.

Amendment of section 32.

17. In section 32 of the principal Act,—

(a) in sub-section (1),—

(i) in clause (iv), the words "authorised by the State Government" shall be omitted;

(ii) the following proviso shall be inserted at the end, namely:—

"Provided that the child shall be produced before the Committee without any loss of time but within a period of twenty-four hours excluding the time necessary for the journey.";

(b) in sub-section (2), the words "to the police and" shall be omitted.

Amendment of section 33.

18. In section 33 of the principal Act,—

(a) in sub-section (1), the words "or any police officer or special juvenile police unit or the designated police officer" shall be omitted;

(b) for sub-section (3), the following sub-sections shall be substituted, namely:—

"(3) The State Government shall review the pendency of cases of the Committee at every six months, and shall direct the Committee to increase the frequency of its sittings or may cause the constitution of additional Committees.

(4) After the completion of the inquiry, if, the Committee is of the opinion that the said child has no family or ostensible support or is in continued need of care and protection, it may allow the child to remain in the children's home or shelter home till suitable rehabilitation is found for him or till he attains the age of eighteen years.".

Amendment of section 34.

19. In section 34 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

"(3) Without prejudice to anything contained in any other law for the time being in force, all institutions, whether State Government run or those run by voluntary organisations for children in need of care and protection shall, within a period of six months from the date of commencement of the Juvenile Justice (Care and Protection of Children) Amendment Act, 2006, be registered under this Act in such manner as may be prescribed.".

Amendment of section 39.

20. In section 39 of the principal Act, for the *Explanation*, the following *Explanation* shall be substituted, namely:—

'*Explanation*.— For the purposes of this section "restoration of and protection of a child" means restoration to—

(a) parents;

(b) adopted parents;

(c) foster parents;

(*d*) guardian;

(*e*) fit person;

(*f*) fit institution.'.

21. In section 41 of the principal Act,— Amendment of section 41.

(*i*) for sub-sections (*2*), (*3*) and (*4*), the following sub-sections shall be substituted, namely:—

"(*2*) Adoption shall be resorted to for the rehabilitation of the children who are orphan, abandoned or surrendered through such mechanism as may be prescribed.

(*3*) In keeping with the provisions of the various guidelines for adoption issued from time to time, by the State Government, or the Central Adoption Resource Agency and notified by the Central Government, children may be given in adoption by a court after satisfying itself regarding the investigations having been carried out, as are required for giving such children in adoption.

(*4*) The State Government shall recognise one or more of its institutions or voluntary organisations in each district as specialised adoption agencies in such manner as may be prescribed for the placement of orphan, abandoned or surrendered children for adoption in accordance with the guidelines notified under sub-section (*3*):

Provided that the children's homes and the institutions run by the State Government or a voluntary organisation for children in need of care and protection, who are orphan, abandoned or surrendered, shall ensure that these children are declared free for adoption by the Committee and all such cases shall be referred to the adoption agency in that district for placement of such children in adoption in accordance with the guidelines notified under sub-section (*3*).";

(*ii*) for sub-section (*6*), the following sub-section shall be substituted, namely:—

"(*6*) The court may allow a child to be given in adoption—

(*a*) to a person irrespective of marital status; or

(*b*) to parents to adopt a child of same sex irrespective of the number of living biological sons or daughters; or

(*c*) to childless couples.".

22. For section 57 of the principal Act, the following section shall be substituted, namely:— Substitution of new section for section 57.

"57. The State Government may direct any child or the juvenile to be transferred from any children's home or special home within the State to any other children's home, special home or institution of a like nature or to such institutions outside the State in consultation with the concerned State Government and with the prior intimation to the Committee or the Board, as the case may be, and such order shall be deemed to be operative for the competent authority of the area to which the child or the juvenile is sent.". Transfer between children's homes under the Act, and juvenile homes of like nature in different parts of India.

23. In section 59 of the principal Act, in sub-section (*2*), for the words "for maximum seven days", the words "for a period generally not exceeding seven days" shall be substituted. Amendment of section 59.

Insertion of new section 62A.

24. After section 62 of the principal Act, the following section shall be inserted, namely:—

Constitution of Child Protection Unit responsible for implementation of the Act.

"62A. Every State Government shall constitute a Child Protection Unit for the State and, such Units for every District, consisting of such officers and other employees as may be appointed by that Government, to take up matters relating to children in need of care and protection and juveniles in conflict with law with a view to ensure the implementation of this Act including the establishment and maintenance of homes, notification of competent authorities in relation to these children and their rehabilitation and co-ordination with various official and non-official agencies concerned.".

Amendment of section 64.

25. In section 64 of the principal Act,—

(*i*) for the words "may direct", the words "shall direct" shall be substituted;

(*ii*) the following proviso and *Explanation* shall be inserted, namely:—

"Provided that the State Government, or as the case may be the Board, may, for any adequate and special reason to be recorded in writing, review the case of a juvenile in conflict with law undergoing a sentence of imprisonment, who has ceased to be so on or before the commencement of this Act, and pass appropriate order in the interest of such juvenile.

Explanation.—In all cases where a juvenile in conflict with law is undergoing a sentence of imprisonment at any stage on the date of commencement of this Act, his case including the issue of juvenility, shall be deemed to be decided in terms of clause (*l*) of section 2 and other provisions contained in this Act and the rules made thereunder, irrespective of the fact that he ceases to be a juvenile on or before such date and accordingly he shall be sent to the special home or a fit institution, as the case may be, for the remainder of the period of the sentence but such sentence shall not in any case exceed the maximum period provided in section 15 of this Act.".

Amendment of section 68.

26. In section 68 of the principal Act,—

(*a*) in sub-section (*1*), the following proviso shall be inserted, namely:—

"Provided that the Central Government may, frame model rules in respect of all or any of the matters with respect to which the State Government may make rules under this section, and where any such model rules have been framed in respect of any such matter, they shall apply to the State until the rules in respect of that matter is made by the State Government and while making any such rules, so far as is practicable, they conform to such model rules.";

(*b*) in sub-section (*2*),—

(*i*) in clause (*x*), after the words, letter and brackets "sub-section (*2*)", the following words, letter and brackets shall be inserted, namely:—

"and the manner of registration of institutions under sub-section (*3*)";

(*ii*) after clause (*xii*), the following clause shall be inserted, namely:—

"(*xiia*) rehabilitation mechanism to be resorted to in adoption under sub-section (*2*), notification of guidelines under sub-section (*3*) and the manner of recognition of specialised adoption agencies under sub-section (*4*) of section 41;";

(*c*) sub-section (*3*) shall be re-numbered as sub-section (*4*) thereof, and before sub-section (*4*) as so re-numbered, the following sub-section shall be inserted namely:—

"(*3*) Every rule made by the Central Government under this Act shall be

laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.".

Sd/-
K. N. CHATURVEDI,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

H. D. VYAS,
Secretary to Government.

Government Central Press, Gandhinagar.

Extra No. 10 REGISTERED No. G/GNR/2

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PART - VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 27th June, 2007.

No. RPB/18-2007/Act-48-06/E .— The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

(LEGISLATIVE DEPARTMENT)

New Delhi, the 13th December, 2006/Agrahayana 22, 1928 (Saka)

The following Act of Parliament has received the assent of the President on the 12th December, 2006, is hereby published for general information :-

THE CONSTITUTION (SCHEDULED TRIBES) ORDER AMENDMENT, 2006.

AN ACT

(Act No. 48 of 2006) (12th December, 2006)

further to amend the Constitution (Scheduled Tribes) Order, 1950 to modify the list of Scheduled Tribes in the State of Bihar.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows :-

Short title.

1. This Act may be called Constitution (Scheduled Tribes) Order Amendment Act, 2006.

Amendment of th Constitution (Scheduled Tribes Order,1950, as amended by the Scheduled Castes and Scheduled Tribes Order (Amendment) Act,1976.

108 of 1976 (as notified on 1st October, 1979).

2. In the Constitution (Schedule Tribes) Order, 1950, as amemded by the Scheduled Castes and Scheduled Tribes Order (Amendment) Act, 1976, in the Schedule, in Part III relating to Bihar, for item 22 (since renumbered as item 21), as appearing in the Hindi version of the said Act, the following shall be substituted, namely :-

"21, Lohara, Lohra".

Sd/-

Dr. K. N. CHATURVEDI,

Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

H. D. VYAS,

Secretary to Government.

Government Central Press, Gandhinagar.

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PART VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar.27th June, 2007.

No. RPB/21-2007/Act-51-06/E :— The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 21st December, 2006/Agrahayana 30,1928 (Saka)

The following Act of Parliament has received the assent of the President on the 21st December, 2006 is hereby published for general information :-

THE JALLIANWALA BAGH NATIONAL MEMORIAL (AMENDMENT) ACT, 2006.

AN ACT

(Act No. 51 of 2006) (21st December, 2006)

to amend the Jallianwala Bagh National Memorial Act, 1951.

BE it enacted by parliament in the Fifty-seventh Year of the Republic of India as follows :-

Short title

1. This Act may be called the Jallianwala Bagh National Memorial (Amendment) Act, 2006.

Amendment of section 4.

25 of 1951

2. In the Jallianwala Bagh National memorial Act, 1951 (hereinafter reffered to as the principal Act), in section 4, for sub-section (1), the following sub-section shall be substituted, namely .--

" *(1)* the Trustees of the Jallianwala Bagh National Memorial, shall be the following, namely :-

(a) the Prime Minister - Chairperson

(b) the President of the Indian National Congress,

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(c) the Minister in-charge of culture,

(d) the Leader of Opposition in the Lok Sabha,

(e) the Governor of the State of Punjab,

(f) the Chief Minister of the State of Punjab, and

(g) three eminent persons to be nominated by the Central Government.".

Substitution of new section for section 5.

3. For section 5 of the principal Act, the following section shall be substituted, namely :-

Term of office of nominated Trustees.

"5. The Trustees nominated under clause *(g)* of sub-section *(1)* of section 4 shall be Trustees for a period of five years, and shall be eligible for renomination."

Insertion of new section 7A.

4. After section 7 of the principal Act, the following section shall be inserted, namely :-

Power to approve audited accounts.

"7A. The Trust shall meet at least once in a year to approve the audited accounts of the Trust and shall transact such other business as may be considered necessary."

Insertion of new section 8A.

5. After section 8 of the principal Act, the following section shall be inserted, namely :-

Accounts and audit.

"8A. *(1)* The accounts of the Trust shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Trust to the Comptroller and Auditor-General.

(2) The Comptroller and Auditor-General and any person appointed by him in connection with the audit of the accounts of the Trust under this Act shall, have the same rights and privileges and the authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect the office of the Trust.

(3) The accounts of the Trust as certified by the Comptroller and Auditor-General or any other person appointed by him in this behalf, together with the audit report thereon shall be forwarded annually to the Central Government by the Trust and the Central Government shall cause the Audit report to be laid, as soon as may be, after it is received, before each House of Parliament.".

Insertion of new section 10A.

6. After section 10 of the principal Act, the following section shall be inserted, namely :-

Rules and regulation to be laid before Parliament.

"10A. Everey rule or regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or ragulation or both Houses agree that the rule or regulation should not be made, the rule or ragulation shall thereafter

have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.".

Sd/-

Dr. K. N. CHATURVEDI,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

H. D. VYAS,
Secretary to Government.

Government Central Press, Gandhinagar.

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PART-VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 27th June, 2007.

No. RPB/22-2007/Act-52-06/E :— The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 21st December, 2006/Agrahayana 30, 1928 (Saka)

The following Act of Parliament has received the assent of the President on the 21st December, 2006, is hereby published for general information :-

THE UTTARANCHAL (ALTERATION OF NAME) ACT, 2006.

AN ACT

(Act No. 52 of 2006) (21st December, 2006)

to alter the name of the State of Uttaranchal

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows :-

1. *(1)* This Act may be called the Uttaranchal (Alteration of Name) Act, 2006. **Short title and commencement.**

(2) It shall come into force on such date as the Central Government may, by notification in the Offical Gazette, appoint.

2. In this Act, unless the context otherwise requires,— **Definitions.**

(a) "appointed day" means the date appointed under sub-section *(2)* of section 1 for the coming into force of this Act;

(b) "appropriate Government" means, as respects a law relating to a matter enumerated in List I in the Seventh Schedule to the Constitution, the Central Government, and as respects any other law, the State Government;

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(c) "law" includes any enactment, Ordinance, regulation, order, bye-law, rule, scheme, notification or other instrument having the force of law in the whole or any part of the State of Uttaranchal.

Alteration of name of the State of Uttaranchal.

3. As from the appointed day, the State of Uttaranchal shall be known as the State of Uttarakhand.

Amendment of First Schedule to the Constitution.

4. In the First Schedule to the Constitution, under the heading "1. THE STATES", in entry 27, under the column "*Name*", for the word "Uttaranchal", the word "Uttarakhand" shall be substituted.

Amendment of Fourth Schedule to the Constitution.

5. In the Fourth Schedule to the Constitution, under the heading "TABLE", in entry 18, in the second column, for the word "Uttaranchal", the word "Uttarakhand" shall be substituted.

Power to adapt laws

6. *(1)* For the purpose of giving effect to the alteration of the name of the State of Uttaranchal by section 3, the appropriate Government may, before the expiration of one year from the appointed day, by order, make such adaptations and modifications of any law made before the appointed day, whether by way of repeal or amendment, as may be necessary or expedient, and thereupon every such law shall have effect subject to the adptations and modifications so made.

(2) Nothing in sub-section *(1)* shall be deemed to prevent a competent Legislature or other competent authority from repealing or amending any law adapted or modified by the appropriate Government under the said sub-section.

Power to construe laws.

7. Notwithstanding that no provision or insufficient provision has been made under section 6 for the adaptation of a law made before the appointed day, any court, tribunal or authority, required or empowered to enforce such law, may construe the law in such manner, without affecting the substance, as may be necessary or proper in regard to the matter before the court, tribunal or authority.

Legal Proceedings.

8. Where immediately before the appointed day any legal proceedings are pending to which the State of Uttaranchal is a party, the State of Uttarakhand shall be deemed to be substituted for the State of Uttaranchal in those proceedings.

Sd/-

Dr. K. N. CHATURVEDI,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

H. D. VYAS,
Secretary to Government.

Government Central Press, Gandhinagar.

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PART - VI

Acts of Parliament and Ordinances promulgated by the President.

Legislative & Parliamentary Affairs Department

Sachivalaya, Gandhinagar, 27th June, 2007

No. RBP-24-2007/Act-54-06/E:-The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

(LEGISLATIVE DEPARTMENT)

New Delhi the 26th December, 2006. Pausa 5, 1928 (Saka)

The following Act of Parliament has received the assent of the President on the 24th December, 2006. is hereby published for general information :-

THE ESSENTIAL COMMODITIES (AMENDMENT) ACT, 2006

(An Act)

(Act No. 54 of 2006) (24th December, 2006)

further to *amend the Essential Commodities Act,* 1955.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

Short title and commencement.

1. *(1)* This Act may be called the Essential Commodities (Amendment) Act, 2006.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of section 2.

10 of 1955

2. In the Essential Commodities Act, 1955 (hereinafter referred to as the principal Act), in section 2, clause *(a)* shall be omitted.

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Insertion new section 2A.

3. After section 2 of the principal Act, the following section shall be inserted namely:-

Essential commodities declaration etc.

'**2A.** *(1)* For the purposes of this Act, "essential commodity" means a commodity specified in the Schedule.

(2) Subject to the provisions of sub-section (4), the Central Government may, if it is satisfied that it is necessary so to do in the public interest and for reasons to be specified in the notification published in the Official Gazette, amend the Schedule so as to—

(a) add a commodity to the said Schedule;

(b) remove any commodity from the said Schedule,

in consultation with the State Governments.

(3) Any notification issued under sub-section *(2)* may also direct that an entry shall be made against such commodity in the said Schedule declaring that such commodity shall be deemed to be an essential commodity for such period not exceeding six months to be specified in the notification:

Provided that the Central Government may, in the public interest and for reasons to be specified, by notification in the Official Gazette, extend such period beyond the said six months,

(4) The Central Government may exercise its powers under sub-section *(2)* in respect of the commodity to which Parliament has power to make laws by virtue of Entry 33 in List III in the Seventh Schedule to the Constitution.

(5) Every notification issued under sub-section *(2)* shall be laid as soon as may be after it is issued, before both Houses of Parliament.'.

Amendment of section 3.

4. In section 3 of the principal Act, in sub-section *(2)*. in clause (g), the words "or cotton textiles" shall be omitted.

Amendment of section 12A

5. In section 12A of the principal Act, in sub-section *(2)*, in clause (a), sub-clause *(i)* shall be omitted.

Savings of the orders issued under section 3.

6. All notifications, orders, directions issued or any appointment made, licence or permit granted under section 3 of the principal Act before the commencement of this Act and are in force, in respect of the essential commodities specified in the Schedule, shall continue to remain in force until and unless it is superseded by any notification, order, appointment made, licence or permit granted or directions issued and it shall be deemed to have been issued under the corresponding provisions of this Act.

THF SCHEDULE

(See section 2A)

ESSENTIAL COMMODITIES

(1) drugs.

23 of 1940 *Explanation—For* the purposes of this Schedule, "drugs" has the meaning assigned to it in clause *(b)* of section 3 of the Drugs and Cosmetics Act, 1940;

(2) fertilizer, whether inorganic organic or mixed;

(3) foodstuffs, including edible oilseeds and oils;

(4) hank yarn made wholly from cotton;

(5) petroleum and petroleum products;

(6) raw jute and jute textiles;

(7) (i)seeds of food-crops and seeds of fruits and vegetables;
(ii)seeds of cattle fodder; and
(iii)jute seeds.

Sd/-

Dr. K. N. CHATURVEDI,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

H. D. VYAS,
Secretary to Government.

Government Central Press, Gandhinagar.

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PART VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar.27th June, 2007.

No. RPB/27-2007/Act-57-06/E :— The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

(LEGISLATIVE DEPARTMENT)

New Delhi, 29th December, 2006/Pausa 8, 1928 (Saka)

The following Act of Parliament has received the assent of the President on the 29th December, 2006, is hereby published for general information :-

THE INDIAN TELEGRAPH (AMENDMENT) ACT, 2006.

(AS PASSED BY THE HOUSES OF PARLIAMENT)

AN ACT

(Act No. 57 of 2006) (29th December, 2006)

further to amend the Indian Telegraph Act, 1885.

BE it enacted by parliament in the Fifty-seventh Year of the Republic of India as follows :-

Short title and commencement

1. *(1)* This Act may be called the Indian Telegraph (Amendment) Act, 2006.

(2) IT shall be deemed to have come into force on the 30th day October, 2006.

Amendment of section 3.

13 of 1885.

2. In section 3 of the Indian Telegraph Act, 1885 (hereinafter referred to as the principal Act), in clause *(1A)*, for the words "obligation to provide access to basic telegraph services", the words "obligation to provide access to telegraph services" shall be substituted.

Repeal and saving.

Ord. 3 of 2006.

3. *(1)* The Indian Telegraph (Amendment) Ordinance, 2006 is hereby repeated.

Ord.3 of 2006.

(2) Notwithstanding the repeal of the Indian Telegraph (Amendment) Ordinance, 2006 anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act.

Sd/-

Dr. K. N. CHATURVEDI,

Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

H. D. VYAS,

Secretary to Government.

Government Central Press, Gandhinagar.

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Extra No. 15 REGISTERED No. G/GNR/2

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The Gujarat Government Gazette

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Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART - VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE & PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 9th July, 2007

No. RPB/4-2007/Ord-04-07/E :-The following Ordinance promulgated by the President and published in the Gazette of India, Extraordinary, Part II, Section 1, dated the 2nd February, 2007 is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 2nd February, 2007/13 *Magha,* 1928 *(Saka)*

THE SPORTS BROADCASTING SIGNALS (MANDATORY SHARING WITH PRASAR BHARATI) ORDINANCE, 2007

No. 4 OF 2007

Promulgated by the President in the Fifty-eighth Year of the Republic of India.

An Ordinance to provide access to the largest number of listeners and viewers, on a free to air basis, of sporting events of national importance through mandatory sharing of sports broadcasting signals with Prasar Bharati and for matters connected therewith or incidental thereto.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

CHAPTER I

PRELIMINARY

1. (*1*) This Ordinance may be called the Sports Broadcasting Signals (Mandatory Sharing with Prasar Bharati) Ordinance, 2007. Short title, extent and commencement.

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(2) It extends to the whole of India.

(3) Save as otherwise provided, it shall be deemed to have come into force on the 11th day of November, 2005.

Definitions.

2. (1) In this Ordinance, unless the context otherwise requires,—

(a) "broadcaster" means any person who provides a content broadcasting service and includes a broadcasting network service provider when he manages and operates his own television or radio channel service;

(b) "broadcasting" means assembling and programming any form of communication content, like signs, signals, writing, pictures, images and sounds, and either placing it in the electronic form on electro-magnetic waves on specified frequencies and transmitting it through space or cables to make it continuously available on the carrier waves, or continuously streaming it in digital data form on the computer networks, so as to be accessible to single or multiple users through receiving devices either directly or indirectly; and all its grammatical variations and cognate expressions;

(c) "broadcasting service" means assembling, programming and placing communication content in electronic form on the electro-magnetic waves on specified frequencies and transmitting it continuously through broadcasting network or networks so as to enable all or any of the multiple users to access it by connecting their receiver devices to their respective broadcasting networks and includes the content broadcasting services and the broadcasting network services;

(d) "broadcasting network service" means a service, which provides a network of infrastructure of cables or transmitting devices for carrying broadcasting content in electronic form on specified frequencies by means of guided or unguided electro-magnetic waves to multiple users, and includes the management and operation of any of the following:

(i) Teleport/Hub/Earth Station,

(ii) Direct-to-Home (DTH) Broadcasting Network,

(iii) Multi-system Cable Television Network,

(iv) Local Cable Television Network,

(v) Satellite Radio Broadcasting Network,

(vi) any other network service as may be prescribed by the Central Government;

(e) "cable television channel service" means the assembly, programming and transmission by cables of any broadcasting television content on a given set of frequencies to multiple subscribers;

(f) "cable television network" means any system consisting of closed transmission paths and associated signal generation, control and distribution equipment, designed to receive and re-transmit television channels or programmes for reception by multiple subscribers;

(g) "community radio service" means terrestrial radio broadcasting intended and restricted only to a specific community and within specified territory;

(h) "content" means any sound, text, data, picture (still or moving), other audio-visual representation, signal or intelligence of any nature or any combination thereof which is capable of being created, processed, stored, retrieved or communicated electronically;

(*i*) "content broadcasting service" means the assembling, programming and placing content in electronic form and transmitting or retransmitting the same on electro-magnetic waves on specified frequencies, on a broadcasting network so as to make it available for access by multiple users by connecting their receiving devices to the network, and includes the management and operation of any of the following:

(i) terrestrial television service,

(ii) terrestrial radio service,

(iii) satellite television service,

(iv) satellite radio service,

(v) cable television channel service,

(vi) community radio service,

(vii) any other content broadcasting services as may be prescribed by the Central Government;

(j) "Direct-to-Home (DTH) broadcasting service" means a service for multi-channel distribution of programmes direct to a subscriber's premises without passing through an intermediary such as a cable operator by uplinking to a satellite system;

(k) "Guidelines" means the Guidelines issued under section 5;

(l) "multi-system cable television network" means a system for multi-channel downlinking and distribution of television programmes by a land-based transmission system using wired cable or wireless cable or a combination of both for simultaneous reception either by multiple subscribers directly or through one or more local cable operators;

(*m*) "Prasar Bharati" means the Corporation known as the Prasar Bharati (Broadcasting Corporation of India) established under sub-section (1) of section 3 of the Prasar Bharati (Broadcasting Corporation of India) Act, 1990; 25 of 1990.

(*n*) "prescribed" means prescribed by rules made under this Ordinacne;

(*o*) "satellite television service" means a television broadcasting service provided by using a satellite, and received with or without the help of a local delivery system but does not include Direct-to-Home delivery service;

(*p*) "satellite radio service" means a radio broadcasting service provided by using a satellite and directly receivable through receiver sets by multiple subscribers in India;

(*q*) "service provider" means provider of a broadcasting service;

(*r*) "specified" means specified under the Guidelines issued under section 5;

(*s*) "sporting events of national importance" means such national or international sporting events, held in India or abroad, as may be notified by the Central Government in the Official Gazette to be of national importance;

(*t*) "terrestrial television service" means a television broadcasting service provided over the air by using a land-based transmitter and directly received through receiver sets by the public;

(*u*) "terrestrial radio service" means a radio broadcasting service provided over the air by using a land-based transmitter and directly received through receiver sets by the public.

(2) Words and expressions used and not defined in this Ordinance and defined in the Cable Television Networks (Regulation) Act, 1995, the Telecom Regulatory Authority of India Act, 1997, the Indian Telegraph Act, 1885, the Indian Wireless Telegraphy Act, 1933 shall have the meanings respectively assigned to them in those Acts. 07 of 1995. 24 of 1997. 13 of 1885. 17 of 1933.

CHAPTER II

MANDATORY SHARING OF SPORTS BROADCASTING SIGNALS WITH PRASAR BHARATI

Mandatory sharing of certain sports broadcasting signals.

3. (1) No content rights owner or holder and no television or radio broadcasting service provider shall carry a live television broadcast on any cable or Direct-to-Home network or radio commentary broadcast in India of sporting events of national importance, unless it simultaneously shares the live broadcasting signal, without its advertisements, with the Prasar Bharati to enable them to re-transmit the same on its terrestrial networks and Direct-to-Home networks in such manner and on such terms and conditions as may be specified.

(2) The terms and conditions under sub-section (1) shall also provide that the advertisement revenue sharing between the content rights owner or holder and the Prasar Bharati shall be in the ratio of not less than 75:25 in case of television coverage and 50:50 in case of radio coverage.

(3) The Central Government may specify a percentage of the revenue received by the Prasar Bharati under sub-section (2), which shall be utilised by the Prasar Bharati for broadcasting other sporting events.

Penalties.

4. The Central Government may specify penalties to be imposed, including suspension or revocation of licence, permission or registration, for violation of various terms and conditions as may be specified under section 3, subject to the condition that amount of a pecuniary penalty shall not exceed one crore rupees:

Provided that no penalty shall be imposed without giving a reasonable opportunity to the service provider:

Provided further that no act or omission on the part of any person after the 11th November, 2005 and before the date of promulgation of the Sports Broadcasting Signals (Mandatory Sharing with Prasar Bharati) Ordinance, 2007 shall be subjected to penalties.

CHAPTER III

POWERS OF THE CENTRAL GOVERNMENT TO ISSUE GUIDELINES

Power of the Central Government to issue Guidelines.

5. The Central Government shall take all such measures, as it deems fit or expedient, by way of issuing Guidelines for mandatory sharing of broadcasting signals with Prasar Bharati relating to sporting events of national importance:

Provided that the Guidelines issued before the promulgation of the Sports Broadcasting Signals (Mandatory Sharing with Prasar Bharati) Ordinance, 2007 shall be deemed to have been issued validly under the provisions of this section.

CHAPTER IV

MISCELLANEOUS

Validation.

6. (1) The provisions of the Guidelines issued by the Central Government for Downlinking of Television Channels on the 11th November, 2005 and for Uplinking from India on the 2nd December, 2005 for mandatory sharing of the sports broadcasting signals shall be deemed to be valid as if they have been issued under this Ordinance.

(2) Notwithstanding anything contained in any judgement, decree or order of any court, tribunal or other authority, any action taken by the Central Government or the Prasar Bharati in pursuance of the guidelines referred to in sub-section (1) shall be deemed to be and to have always been for all purposes in accordance with the law, as if the Guidelines had been validly in force at all material times and notwithstanding anything as aforesaid and without prejudice to the generality of the foregoing provisions, no legal proceeding shall be maintained or continued in any court for the enforcement of any direction given by any court or any decree or order which would not have been so given had the Guidelines been validly in force at all material times.

Power of the Central Government to make rules.

7. The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Ordinance.

Rules and Guidelines to be laid before Parliament.

8. Every rule and Guidelines made and issued, as the case may be, under this Ordinance shall be laid, as soon as may be after it is made or issued, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the exipiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or Guidelines, or both Houses agree that the rule or Guidelines should not be made, the rule or Guidelines shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or Guidelines.

Saving.

9. The relevant provisions under the Guidelines for Downlinking of Television Channels issued on the 11th November, 2005 and the Guidelines for Uplinking from India issued on the 2nd December, 2005 for mandatory sharing of sports broadcasting signals with Prasar Bharati, shall continue to remain in force till fresh Guidelines are issued under this Ordinance.

Sd/-

A.P.J. Abdul Kalam
President

K. N. Chaturvedi,
Secretary to the Government of India

By order and in the name of the Government of Gujarat,

H. D. VYAS,
Secretary to Government.

Government Central Press, Gandhinagar.

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PART - VI

Acts of Parliament and Ordinances promulgated by the President.

Legislative & Parliamentary Affairs Department

Sachivalaya, Gandhinagar, 6th August, 2007.

No. RPB-29-2007/Act-2-07/E :- The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

(LEGISLATIVE DEPARTMENT)

New Delhi the 2nd January, 2007. Pausa 12, 1928 (Saka)

The following Act of Parliament has received the assent of the President on the 29th December, 2006. is hereby published for general information :-

THE SCHEDULED TRIBES AND OTHER TRADITIONAL FOREST DWELLERS (RECOGNITION OF FOREST RIGHTS) ACT, 2006

An Act

(Act No. 2 of 2007) (29th December, 2006)

to recognise and vest the forest rights and occupation in forest land in forest dwelling Scheduled Tribes and other traditional forest dwellers who have been residing in such forests for generations but whose rights could not be recorded; to provide for a framework for recording the forest rights so vested and the nature of evidence required for such recognition and vesting in respect of forest land.

WHEREAS the recognised rights of the forest dwelling Scheduled Tribes and other traditional forest dwellers include the responsibilities and authority for sustainable use, conservation of biodiversity and maintenance of ecological balance and thereby strengthening the conservation regime of the forests while ensuring livelihood and food security of the forest dwelling Scheduled Tribes and other traditional forest dwellers;

AND WHEREAS the forest rights on ancestral lands and their habitat were not adequately recognised in the consolidation of State forests during the colonial period as well as in independent India resulting in historical injustice to the forest dwelling Scheduled Tribes and other traditional forest dwellers who are integral to the very survival and sustainability of the forest ecosystem;

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AND WHEREAS it has become necessary to address the long standing insecurity of tenurial and access rights of forest dwelling Scheduled Tribes and other traditional forest dwellers including those who were forced to relocate their dwelling due to State development interventions.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

CHAPTER 1

PRELIMINARY

Short title and commencement.

1. (*1*) This Act may be called the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.

(*2*) It extends to the whole of India except the State of Jammu and Kashmir.

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "community forest resource" means customary common forest land within the traditional or customary boundaries of the village or seasonal use of landscape in the case of pastoral communities, including reserved forests, protected forests and protected areas such as Sanctuaries and National Parks to which the community had traditional access;

(*b*) "critical wildlife habitat" means such areas of National Parks and Sanctuaries where it has been specifically and clearly established, case by case, on the basis of scientific and objective criteria, that such areas are required to be kept as inviolate for the purposes of wildlife conservation as may be determined and notified by the Central Government in the Ministry of Environment and Forests after open process of consultation by an Expert Committee, which includes experts from the locality appointed by that Government wherein a representative of the Ministry of Tribal Affairs shall also be included, in determining such areas according to the procedural requirements arising from sub-sections (*1*) and (*2*) of section 4;

(*c*) "forest dwelling Scheduled Tribes" means the members or community of the Scheduled Tribes who primarily reside in and who depend on the forests or forest lands for *bona fide* livelihood needs and includes the Scheduled Tribe pastoralist communities;

(*d*) "forest land" means land of any description falling within any forest area and includes unclassified forests, undemarcated forests, existing or deemed forests, protected forests, reserved forests, Sanctuaries and National Parks;

(*e*) "forest rights" means the forest rights referred to in section 3;

(*f*) "forest villages" means the settlements which have been established inside the forests by the forest department of any State Government for forestry operations or which were converted into forest villages through the forest reservation process and includes forest settlement villages, fixed demand holdings, all types of *taungya* settlements, by whatever name called, for such villages and includes lands for cultivation and other uses permitted by the Government;

(*g*) "Gram Sabha" means a village assembly which shall consist of all adult members of a village and in case of States having no Panchayats, Padas, Tolas and other traditional village institutions and elected village committees, with full and unrestricted participation of women;

(*h*) "habitat" includes the area comprising the customary habitat and such other habitats in reserved forests and protected forests of primitive tribal groups and pre-agricultural communities and other forest dwelling Scheduled Tribes;

(*i*) "minor forest produce" includes all non-timber forest produce of plant origin including bamboo, brush wood, stumps, cane, tussar, cocoons, honey, wax, lac, tendu or kendu leaves, medicinal plants and herbs, roots, tubers and the like;

(*j*) "nodal agency" means the nodal agency specified in section 11;

(*k*) "notification" means a notification published in the Official Gazette;

(*l*) "prescribed" means prescribed by rules made under this Act;

(*m*) "Scheduled Areas" means the Scheduled Areas referred to in clause (*1*) of article 244 of the Constitution;

(*n*) "sustainable use" shall have the same meaning as assigned to it in clause (*o*) of section 2 of the Biological Diversity Act, 2002; 18 of 2003.

(*o*) "other traditional forest dweller" means any member or community who has for at least three generations prior to the 13th day of December, 2005 primarily resided in and who depend on the forest or forests land for *bona fide* livelihood needs.

Explanation.—For the purpose of this clause, "generation" means a period comprising of twenty-five years;

(*p*) "village" means—

(*i*) a village referred to in clause (*b*) of section 4 of the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996; or 40 of 1996.

(*ii*) any area referred to as a village in any State law relating to Panchayats other than the Scheduled Areas; or

(*iii*) forest villages, old habitation or settlements and unsurveyed villages, whether notified as village or not; or

(*iv*) in the case of States where there are no Panchayats, the traditional village, by whatever name called;

(*q*) "wild animal" means any species of animal specified in Schedules I to IV of the Wild Life (Protection) Act, 1972 and found wild in nature. 53 of 1972.

CHAPTER II

FOREST RIGHTS

Forest rights of Forest dwelling Scheduled Tribes and other tradional forest dwellers.

3. (*1*) For the purposes of this Act, the following rights, which secure individual or community tenure or both, shall be the forest rights of forest dwelling Scheduled Tribes and other traditional forest dwellers on all forest lands, namely:—

(*a*) right to hold and live in the forest land under the individual or common occupation for habitation or for selfcultivation for livelihood by a member or members of a forest dwelling Scheduled Tribe or other traditional forest dwellers;

(*b*) community rights such as *nistar*, by whatever name called, including those used in erstwhile Princely States, Zamindari or such intermediary regimes;

(*c*) right of ownership access to collect, use, and dispose of minor forest produce which has been traditionally collected within or outside village boundaries;

(*d*) other community rights of uses or entitlements such as fish and other products of water bodies, grazing (both settled or transhumant) and traditional seasonal resource access of nomadic or pastoralist communities;

(*e*) rights, including community tenures of habitat and habitation for primitive tribal groups and pre-agricultural communities;

(*f*) rights in or over disputed lands under any nomenclature in any State where claims are disputed;

(*g*) rights for conversion of *Pattas* or leases or grants issued by any local authority or any State Government on forest lands to titles;

(*h*) rights of settlement and conversion of all forest villages, old habitation, unsurveyed villages and other villages in forests, whether recorded, notified, or not, into revenue villages;

(*i*) right to protect, regenerate or conserve or manage any community forest resource which they have been traditionally protecting and conserving for sustainable use;

(*j*) rights which are recognised under any State law or laws of any Autonomous District Council or Autonomous Regional Council or which are accepted as rights of tribals under any traditional or customary law of the concerned tribes of any State;

(*k*) right of access to biodiversity and community right to intellectual property and traditional knowledge related to biodiversity and cultural diversity;

(*l*) any other traditional right customarily enjoyed by the forest dwelling Scheduled Tribes or other traditional forest dwellers, as the case may be, which are not mentioned in clauses (*a*) to (*k*) but excluding the traditional right of hunting or trapping or extracting a part of the body of any species of wild animal;

(*m*) right to *in situ* rehabilitation including alternative land in cases where the Scheduled Tribes and other traditional forest dwellers have been illegally evicted or displaced from forest land of any description without receiving their legal entitlement to rehabilitation prior to the 13th day of December, 2005.

(*2*) Notwithstanding anything contained in the Forest (Conservation) Act, 1980, the Central Government shall provide for diversion of forest land for the following facilities managed by the Government which involve felling of trees not exceeding seventy-five trees per hectare, nemely:— 69 of 1980.

(*a*) schools;

(*b*) dispensary or hospital;

(*c*) *anganwadis*;

(*d*) fair price shops;

(*e*) electric and telecommunication lines;

(*f*) tanks and other minor water bodies;

(*g*) drinking water supply and water pipelines;

(*h*) water or rain water harvesting structures;

(*i*) minor irrigation canals;

(*j*) non-conventional source of energy;

(*k*) skill upgradation or vocational training centres;

(*l*) roads; and

(*m*) community centres:

Provided that such diversion of forest land shall be allowed only if,—

(*i*) the forest land to be diverted for the purposes mentioned in this sub-section is less than one hectare in each case; and

(*ii*) the clearance of such developmental projects shall be subject to the condition that the same is recommended by the Gram Sabha.

CHAPTER III

RECOGNITION, RESTORATION AND VESTING OF FOREST RIGHTS AND RELATED MATTERS

Recognition of, and vesting of, forest rights in forest dwelling Scheduled Tribes and other traditional forest dwellers.

4. *(1)* Notwithstanding anything contained in any other law for the time being in force, and subject to the provisions of this Act, the Central Government hereby recognises and vests forest rights in—

(a) the forest dwelling Scheduled Tribes in States or areas in States where they are declared as Scheduled Tribes in respect of all forest rights mentioned in section 3;

(b) the other traditional forest dwellers in respect of all forest rights mentioned in section 3.

(2) The forest rights recognised under this Act in critical wildlife habitats of National Parks and Sanctuaries may subsequently be modified or resettled, provided that no forest rights holders shall be resettled or have their rights in any manner affected for the purposes of creating inviolate areas for wildlife conservation except in case all the following conditions are satisfied, namely:—

(a) the process of recognition and vesting of rights as specified in section 6 is complete in all the areas under consideration;

53 of 1972.

(b) it has been established by the concerned agencies of the State Government, in exercise of their powers under the Wild Life (Protection) Act, 1972 that the activities or impact of the presence of holders of rights upon wild animals is sufficient to cause irreversible damage and threaten the existence of said species and their habitat;

(c) the State Government has concluded that other reasonable options, such as, co-existence are not available;

(d) a resettlement or alternatives package has been prepared and communicated that provides a secure livelihood for the affected individuals and communities and fulfils the requirements of such affected individuals and communities given in the relevant laws and the policy of the Central Government;

(e) the free informed consent of the Gram Sabhas in the areas concerned to the proposed resettlement and to the package has been obtained in writing;

(f) no resettlement shall take place until facilities and land allocation at the resettlement location are complete as per the promised package:

Provided that the critical wildlife habitats from which rights holders are thus relocated for purposes of wildlife conservation shall not be subsequently diverted by the State Government or the Central Government or any other entity for other uses.

(3) The recognition and vesting of forest rights under this Act to the forest dwelling Scheduled Tribes and to other traditional forest dwellers in relation to any State or Union territory in respect of forest land and their habitat shall be subject to the condition that such Scheduled Tribes or tribal communities or other traditional forest dwellers had occupied forest land before the 13th day of December, 2005.

(4) A right conferred by sub-section *(1)* shall be heritable but not alienable or transferable and shall be registered jointly in the name of both the spouses in case of married persons and in the name of the single head in the case of a household headed by a single person and in the absence of a direct heir, the heritable right shall pass on to the next-of- kin.

(5) Save as otherwise provided, no member of a forest dwelling Scheduled Tribe or other traditional forest dweller shall be evicted or removed from forest land under his occupation till the recognition and verification procedure is complete.

(6) Where the forest rights recognised and vested by sub-section *(1)* are in respect of land mentioned in clause *(a)* of sub-section *(1)* of section 3 such land shall be under the occupation of an individual or family or community on the date of commencement of this Act and shall be restricted to the area under actual occupation and shall in no case exceed an area of four hectares.

(7) The forest rights shall be conferred free of all encumbrances and procedural requirements, including clearance under the Forest (Conservation) Act, 1980, requirement of paying the 'net present value' and 'compensatory afforestation' for diversion of forest land, except those specified in this Act. 69 of 1980.

(8) The forest rights recognised and vested under this Act shall include the right of land to forest dwelling Scheduled Tribes and other traditional forest dwellers who can establish that they were displaced from their dwelling and cultivation without land compensation due to State development interventions, and where the land has not been used for the purpose for which it was acquired within five years of the said acquisition.

Duties of holders of forest rights.

5. The holders of any forest right, Gram Sabha and village level institutions in areas where there are holders of any forest right under this Act are empowered to—

(a) protect the wild life, forest and biodiversity;

(b) ensure that adjoining catchments area, water sources and other ecological sensitive areas adequately protected;

(c) ensure that the habitat of forest dwelling Scheduled Tribes and other traditional forest dwellers is preserved from any form of destructive practices affecting their cultural and natural heritage;

(d) ensure that the decisions taken in the Gram Sabha to regulate access to community forest resources and stop any activity which adversely affects the wild animals, forest and the biodiversity are complied with.

CHAPTER IV

AUTHORITIES AND PROCEDURE FOR VESTING OF FOREST RIGHTS

Authorities to vest forest rights in forest dwelling Scheduled Tribes and other traditional forest dwellers and procedure thereof.

6. *(1)* The Gram Sabha shall be the authority to initiate the process for determining the nature and extent of individual or community forest rights or both that may be given to the forest dwelling Scheduled Tribes and other traditional forest dwellers within the local limits of its jurisdiction under this Act by receiving claims, consolidating and verifying them and preparing a map delineating the area of each recommended claim in such manner as may be prescribed for exercise of such rights and the Gram Sabha shall, then, pass a resolution to that effect and thereafter forward a copy of the same to the Sub-Divisional Level Committee.

(2) Any person aggrieved by the resolution of the Gram Sabha may prefer a petition to the Sub-Divisional Level Committee constituted under sub-section *(3)* and the Sub-Divisional Level Committee shall consider and dispose of such petition:

Provided that every such petition shall be preferred within sixty days from the date of passing of the resolution by the Gram Sabha:

Provided further that no such petition shall be disposed of against the aggrieved person, unless he has been given a reasonable opportunity to present his case.

(3) The State Government shall constitute a Sub-Divisional Level Committee to examine the resolution passed by the Gram Sabha and prepare the record of forest rights and forward it through the Sub-Divisional Officer to the District Level Committee for a final decision.

(4) Any person aggrieved by the decision of the Sub-Divisional Level Committee may prefer a petition to the District Level Committee within sixty days from the date of decision of the Sub-Divisional Level Committee and the District Level Committee shall consider and dispose of such petition:

Provided that no petition shall be preferred directly before the District Level Committee against the resolution of the Gram Sabha unless the same has been preferred before and considered by the Sub-Divisional Level Committee:

Provided further that no such petition shall be disposed of against the aggrieved person, unless he has been given a reasonable opportunity to present his case.

(5) The State Government shall constitute a District Level Committee to consider and finally approve the record of forest rights prepared by the Sub-Divisional Level Committee.

(6) The decision of the District Level Committee on the record of forest rights shall be final and binding.

(7) The State Government shall constitute a State Level Monitoring Committee to monitor the process of recognition and vesting of forest rights and to submit to the nodal agency such returns and reports as may be called for by that agency.

(8) The Sub-Divisional Level Committee, the District Level Committee and the State Level Monitoring Committee shall consist of officers of the departments of Revenue, Forest and Tribal Affairs of the State Government and three members of the Panchayati Raj Institutions at the appropriate level, appointed by the respective Panchayati Raj Institutions, of whom two shall be the Scheduled Tribe members and at least one shall be a woman, as may be prescribed.

(9) The composition and functions of the Sub-Divisional Level Committee, the District Level Committee and the State Level Monitoring Committee and the procedure to be followed by them in the discharge of their functions shall be such as may be prescribed.

CHAPTER V

OFFENCES AND PENALTIES

Offences by members or officers of authorities and Committees under this Act.

7. Where any authority or Committee or officer or member of such authority or Committee contravenes any provision of this Act or any rule made thereunder concerning recognition of forest rights, it, or they, shall be deemed to be guilty of an offence under this Act and shall be liable to be proceeded against and punished with fine which may extend to one thousand rupees:

Provided that nothing contained in this sub-section shall render any member of the authority or Committee or head of the department or any person referred to in the section liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

Cognizance of offences.

8. No court shall take cognizance of any offence under section 7 unless any forest dwelling Scheduled Tribe in case of a dispute relating to a resolution of a Gram Sabha or the Gram Sabha through a resolution against any higher authority gives a notice of not less than sixty days to the State Level Monitoring Committee and the State Level Monitoring Committee has not proceeded against such authority.

CHAPTER VI

MISCELLANEOUS

Members of authorities, etc., to be public servants.

9. Every member of the authorities referred to in Chapter IV and every other officer exercising any of the powers conferred by or under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. 45 of 1860.

Protection of action taken in good faith.

10. *(1)* No suit, prosecution or other legal proceeding shall lie against any officer or other employee of the Central Government or the State Government for anything which is in good faith done or intended to be done by or under this Act.

(2) No suit or other legal proceeding shall lie against the Central Government or the State Government or any of its officers or other employees for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act.

(3) No suit or other legal proceeding shall lie against any authority as referred to in Chapter IV including its Chairperson, members, member-secretary, officers and other employees for anything which is in good faith done or intended to be done under this Act.

Nodal agency.

11. The Ministry of the Central Government dealing with Tribal Affairs or any officer or authority authorised by the Central Government in this behalf shall be the nodal agency for the implementation of the provisions of this Act.

Power of Central Government to issue directions.

12. In the performance of its duties and exercise of its powers by or under this Act, every authority referred to in Chapter IV shall be subject to such general or special directions, as the Central Government may, from time to time, give in writing.

Act not in derogation of any other law.

13. Save as otherwise provided in this Act and the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996, the provisions of this Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force. 40 of 1996.

Power to make rules.

14. *(1)* The Central Government may, by notification, and subject to the condition of previous publication, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:—

(a) procedural details for implementation of the procedure specified in section 6;

(b) the procedure for receiving claims, consolidating and verifying them and preparing a map delineating the area of each recommended claim for exercise of forest rights under sub-section *(1)* of section 6 and the manner of preferring a petition to the Sub-Divisional Committee under sub-section *(2)* of that section;

(c) the level of officers of the departments of Revenue, Forest and Tribal Affairs of the State Government to be appointed as members of the Sub-Divisional Level Committee, the District Level Committee and the State Level Monitoring Committee under sub-section *(8)* of section 6;

(d) the composition and functions of the Sub-Divisional Level Committee, the District Level Committee and the State Level Monitoring Committee and the procedure to be followed by them in the discharge of their functions under sub-section *(9)* of section 6;

(e) any other matter which is required to be, or may be, prescribed.

(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Sd/-

Dr. K. N. CHATURVEDI,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

H. D. VYAS,
Secretary to Government.

Government Central Press, Gandhinagar.

Extra No. 17 REGISTERED No. G/GNR/2

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PART - VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE & PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 6th August, 2007

No. RPB/31-2007/Act-4-07/E :- The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

(LEGISLATIVE DEPARTMENT)

New Delhi, the 2nd January, 2007, Pausa 12, 1928 (Saka)

The following Act of Parliament has received the assent of the President on the 29th December, 2006, is hereby published for general information :-

THE COMMISSIONS FOR PROTECTION OF CHILD RIGHTS (AMENDMENT) ACT, 2006

AN ACT

(Act No. 4 of 2007) (29th December, 2006)

to *amend the Commissions for Protection of Child Right Act, 2005.*

Be it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

1. This Act may be called the Commissions for Protection of Child Rights (Amendment) Act, 2006. **Short title.**

2. In the Commissions for Protection of Child Rights Act, 2005, in the proviso to section 4, for the words "Minister of Human Resourc Development", the words "Minister in charge of the Minister or thje Department of Women and Child Development" shall substitutede. **Amendment of section 4 of Act 4 of 2006..**

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Sd/-

Dr. K. N. Chaturvedi,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

H. D. VYAS,
Secretary to Government.

Government Central Press, Gandhinagar.

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PART - VI

Acts of Parliament and Ordinances promulgated by the President.
Legislative & Parliamentary Affairs Department

Sachivalaya, Gandhinagar, 6th August, 2007

No. RPB-32-2007/Act-5-07/E :- The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

(LEGISLATIVE DEPARTMENT)

New Delhi, the 4th January, 2007. Pausa 14, 1928 (Saka)

The following Act of Parliament has received the assent of the President on the 3rd January, 2007, is hereby published for general information :-

THE CENTRAL EDUCATIONAL INSTITUTIONS (RESERVATION IN ADMISSION) ACT, 2006

An Act

(Act No. 5 of 2007) (3rd January, 2007)

to provide for the reservation in admission of the students belonging to the Scheduled Castes, the Scheduled Tribes and the Other Backward Classes of citizens, to certain Central Educational Institutions established, maintained or aided by the Central Government, and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

1. This Act may be called the Central Educational Institutions (Reservation in Admission) Act, 2006. Short title.

2. In this Act, unless the context otherwise requires,— Definitions.

(*a*) "academic session" means the period in a calendar year, or a part thereof, during which a Central Educational Institution is open for teaching or instruction in any branch of study or faculty;

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(*b*) "annual permitted strength" means the number of seats, in a course or programme for teaching or instruction in each branch of study or faculty authorised by an appropriate authority for admission of students to a Central Educational Institution;

(*c*) "appropriate authority" means the University Grants Commission, the Bar Council of India, the Medical Council of India, the All India Council for Technical Education or any other authority or body established by or under a Central Act for the determination, coördination or maintenance of the standards of higher education in any Central Educational Institution;

(*d*) "Central Educational Institution" means—

(*i*) a university established or incorporated by or under a Central Act;

(*ii*) an institution of national importance set up by an Act of Parliament;

(*iii*) an institution, declared as a deemed University under section 3 of the University Grants Commission Act, 1956, and maintained by or receiving aid from the Central Government; 3 of 1956.

(*iv*) an institution maintained by or receiving aid from the Central Government, whether directly or indirectly, and affiliated to an institution referred to in clause (*i*) or clause (*ii*), or a constituent unit of an institution referred to in clause (*iii*);

(*v*) an educational institution set up by the Central Government under the Societies Registration Act, 1860; 21 of 1860.

(*e*) "faculty" means the faculty of a Central Educational Institution;

(*f*) "Minority Educational Institution" means an institution established and administered by the minorities under clause (1) of article 30 of the Constitution and so declared by an Act of Parliament or by the Central Government or declared as a Minority Educational Institution under the National Commission for Minority Educational Institutions Act, 2004; 2 of 2005.

(*g*) "Other Backward Classes" means the class or classes of citizens who are socially and educationally backward, and are so determined by the Central Government;

(*h*) "Scheduled Castes" means the Scheduled Castes notified under article 341 of the Constitution;

(*i*) "Scheduled Tribes" means the Scheduled Tribes notified under article 342 of the Constitution;

(*j*) "teaching or instruction in any branch of study" means teaching or instruction in a branch of study leading to three principal levels of qualifications at bachelor (undergraduate) masters (postgraduate) and doctoral levels .

Reservation of seats in Central Educational Institutions.

3. The reservation of seats in admission and its extent in a Central Educational Institution shall be provided in the following manner, namely:—

(*i*) out of the annual permitted strength in each branch of study or faculty, fifteen per cent. seats shall be reserved for the Scheduled Castes;

(*ii*) out of the annual permitted strength in each branch of study or faculty, seven and one-half per cent. seats shall be reserved for the Scheduled Tribes;

(*iii*) out of the annual permitted strength in each branch of study or faculty, twenty-seven per cent. seats shall be reserved for the Other Backward Classes.

Act not to apply in certain cases.

4. The provisions of section 3 of this Act shall not apply to—

(*a*) a Central Educational Institution established in the tribal areas referred to in the Sixth Schedule to the Constitution;

(*b*) the institutions of excellence, research institutions, institutions of national and strategic importance specified in the Schedule to this Act:

Provided that the Central Government may, as and when considered necessary, by notification in the Official Gazette, amend the Schedule;

(*c*) a Minority Educational Institution as defined in this Act;

(*d*) a course or programme at high levels of specialisation, including at the post-doctoral level, within any branch of study or faculty, which the Central Government may, in consultation with the appropriate authority, specify.

Mandatory increase of seats.

5. (*1*) Notwithstanding anything contained in clause (*iii*) of section 3 and in any other law for the time being in force, every Central Educational Institution shall, with the prior approval of the appropriate authority, increase the number of seats in a branch of study or faculty over and above its annual permitted strength so that the number of seats, excluding those reserved for the persons belonging to the Scheduled Castes, the Scheduled Tribes and the Other Backward Classes, is not less than the number of such seats available for the academic session immediately preceding the date of the coming into force of this Act.

(*2*) Where, on a representation by any Central Educational Institution, the Central Government, in consultation with the appropriate authority, is satisfied that for reasons of financial, physical or academic limitations or in order to maintain the standards of education, the annual permitted strength in any branch of study or faculty of such institution cannot be increased for the academic session following the commencement of this Act, it may permit by notification in the Official Gazette, such institution to increase the annual permitted strength over a maximum period of three years beginning with the academic session following the commencement of this Act; and then, the extent of reservation for the Other Backward Classes as provided in clause (*iii*) of section 3 shall be limited for that academic session in such manner that the number of seats available to the Other Backward Classes for each academic session are commensurate with the increase in the permitted strength for each year.

Reservation of seats in admissions to begin in calendar year, 2007.

6. The Central Educational Institutions shall take all necessary steps, which are required in giving effect to the provisions of sections 3, 4 and 5 of this Act, for the purposes of reservation of seats in admissions to its academic sessions commencing on and from the calendar year, 2007.

Laying of notifications before Parliament.

7. Every notification made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the notification or both Houses agree that the notification should not be made, the notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that notification.

THE SCHEDULE
[*See* section 4(*b*)]

S. No.	Names of the Institutions of Excellence, etc.
1.	Homi Bhabha National Institute, Mumbai and its constituent units, namely:—
	(i) Bhabha Atomic Research Centre, Trombay;
	(ii) Indira Gandhi Centre for Atomic Research, Kalpakkam;
	(iii) Raja Ramanna Centre for Advanced Technology, Indore;
	(iv) Institute for Plasma Research, Gandhinagar;
	(v) Variable Energy Cyclotron Centre, Kolkata;
	(vi) Saha Institute of Nuclear Physics, Kolkata;
	(vii) Institute of Physics, Bhubaneshwar;
	(viii) Institute of Mathematical Sciences, Chennai;
	(ix) Harish-Chandra Research Institute, Allahabad;
	(x) Tata Memorial Centre, Mumbai.
2.	Tata Institute of Fundamental Research, Mumbai.
3.	North-Eastern Indira Gandhi Regional Institute of Health and Medical Science, Shillong.
4.	National Brain Research Centre, Manesar, Gurgaon.
5.	Jawaharlal Nehru Centre for Advanced Scientific Research, Bangalore.
6.	Physical Research Laboratory, Ahmedabad.
7.	Space Physics Laboratory, Thiruvananthapuram.
8.	Indian Institute of Remote Sensing, Dehradun.

Dr. K. N. CHATURVEDI,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

H. D. VYAS,
Secretary to Government.

Government Central Press, Gandhinagar.

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PART - VI

Acts of Parliament and Ordinances promulgated by the President.

Legislative & Parliamentary Affairs Department

Sachivalaya, Gandhinagar, 6th August, 2007

No. RPB-33-2007/Act-6-07/E :- The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

(LEGISLATIVE DEPARTMENT)

New Delhi, the 11th January, 2007, Pausa 21, 1928 (Saka)

The following Act of Parliament has received the assent of the President on the 10th January, 2007, is hereby published for general information :-

THE PROHIBITION OF CHILD MARRIAGE ACT, 2006

An Act

(Act No. 6 of 2007) (10th January, 2007)

to provide for the prohibition of solemnisation of child marriages and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

Short title, extent and commencement.

1. (1) This Act may be called the Prohibition of Child Marriage Act, 2006.

(2) It extends to the whole of India except the State of Jammu and Kashmir, and it applies also to all citizens of India without and beyond India:

Provided that nothing contained in this Act shall apply to the Renoncants of the Union territory of Pondicherry.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for different States and any reference in any provision to the commencement of this Act shall be construed in relation to any State as a reference to the coming into force of that provision in that State.

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Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "child" means a person who, if a male, has not completed twenty-one years of age, and if a female, has not completed eighteen years of age;

(*b*) "child marriage" means a marriage to which either of the contracting parties is a child;

(*c*) "contracting party", in relation to a marriage, means either of the parties whose marriage is or is about to be thereby solemnised;

(*d*) "Child Marriage Prohibition Officer" includes the Child Marriage Prohibition Officer appointed under sub-section (*1*) of section 16;

(*e*) "district court" means, in any area for which a Family Court established under section 3 of the Family Courts Act, 1984 exists, such Family Court, and in any area for which there is no Family Court but a city civil court exists, that court and in any other area, the principal civil court of original jurisdiction and includes any other civil court which may be specified by the State Government, by notification in the Official Gazette, as having jurisdiction in respect of the matters dealt with in this Act; 66 of 1984.

(*f*) "minor" means a person who, under the provisions of the Majority Act, 1875 is to be deemed not to have attained his majority. 9 of 1875.

Child marriages to be voidable at the option of contracting party being a child.

3. (*1*) Every child marriage, whether solemnised before or after the commencement of this Act, shall be voidable at the option of the contracting party who was a child at the time of the marriage:

Provided that a petition for annulling a child marriage by a decree of nullity may be filed in the district court only by a contracting party to the marriage who was a child at the time of the marriage.

(*2*) If at the time of filing a petition, the petitioner is a minor, the petition may be filed through his or her guardian or next friend along with the Child Marriage Prohibition Officer.

(*3*) The petition under this section may be filed at any time but before the child filing the petition completes two years of attaining majority.

(*4*) While granting a decree of nullity under this section, the district court shall make an order directing both the parties to the marriage and their parents or their guardians to return to the other party, his or her parents or guardian, as the case may be, the money, valuables, ornaments and other gifts received on the occasion of the marriage by them from the other side, or an amount equal to the value of such valuables, ornaments, other gifts and money:

Provided that no order under this section shall be passed unless the concerned parties have been given notices to appear before the district court and show cause why such order should not be passed.

Provision for maintenance and residence to female contracting party to child marriage.

4. (*1*) While granting a decree under section 3, the district court may also make an interim or final order directing the male contracting party to the child marriage, and in case the male contracting party to such marriage is a minor, his parent or guardian to pay maintenance to the female contracting party to the marriage until her remarriage.

(*2*) The quantum of maintenance payable shall be determined by the district court having regard to the needs of the child, the lifestyle enjoyed by such child during her marriage and the means of income of the paying party.

(*3*) The amount of maintenance may be directed to be paid monthly or in lump sum.

(*4*) In case the party making the petition under section 3 is the female contracting party, the district court may also make a suitable order as to her residence until her remarriage.

Custody and maintenance of children of child marriages.

5. (*1*) Where there are children born of the child marriage, the district court shall make an appropriate order for the custody of such children.

(2) While making an order for the custody of a child under this section, the welfare and best interests of the child shall be the paramount consideration to be given by the district court.

(3) An order for custody of a child may also include appropriate directions for giving to the other party access to the child in such a manner as may best serve the interests of the child, and such other orders as the district court may, in the interest of the child, deem proper.

(4) The district court may also make an appropriate order for providing maintenance to the child by a party to the marriage or their parents or guardians.

Legitimacy of children born of child marriages.

6. Notwithstanding that a child marriage has been annulled by a decree of nullity under section 3, every child begotten or conceived of such marriage before the decree is made, whether born before or after the commencement of this Act, shall be deemed to be a legitimate child for all purposes.

Power of district court to modify orders issued under section 4 or section 5.

7. The district court shall have the power to add to, modify or revoke any order made under section 4 or section 5 and if there is any change in the circumstances at any time during the pendency of the petition and even after the final disposal of the petition.

Court to which petition should be made.

8. For the purpose of grant of reliefs under sections 3, 4 and 5, the district court having jurisdiction shall include the district court having jurisdiction over the place where the defendant or the child resides, or where the marriage was solemnised or where the parties last resided together or the petitioner is residing on the date of presentation of the petition.

Punishment for male adult marrying a child.

9. Whoever, being a male adult above eighteen years of age, contracts a child marriage shall be punishable with rigorous imprisonment which may extend to two years or with fine which may extend to one lakh rupees or with both.

Punishment for solemnising a child marriage.

10. Whoever performs, conducts, directs or abets any child marriage shall be punishable with rigorous imprisonment which may extend to two years and shall be liable to fine which may extend to one lakh rupees unless he proves that he had reasons to believe that the marriage was not a child marriage.

Punishment for promoting or permitting solemnisation of child marriages

11. (1) Where a child contracts a child marriage, any person having charge of the child, whether as parent or guardian or any other person or in any other capacity, lawful or unlawful, including any member of an organisation or association of persons who does any act to promote the marriage or permits it to be solemnised, or negligently fails to prevent it from being solemnised, including attending or participating in a child marriage, shall be punishable with rigorous imprisonment which may extend to two years and shall also be liable to fine which may extend up to one lakh rupees:

Provided that no woman shall be punishable with imprisonment.

(2) For the purposes of this section, it shall be presumed, unless and until the contrary is proved, that where a minor child has contracted a marriage, the person having charge of such minor child has negligently failed to prevent the marriage from being solemnised.

Marriage of a minor child to be void in certain circumstances

12. Where a child, being a minor—

(a) is taken or enticed out of the keeping of the lawful guardian; or

(b) by force compelled, or by any deceitful means induced to go from any place: or

(c) is sold for the purpose of marriage; and made to go through a form of marriage or if the minor is married after which the minor is sold or trafficked or used for immoral purposes,

such marriage shall be null and void.

Power of court to issue injunction prohibiting child marriages.

13. (*1*) Notwithstanding anything to the contrary contained in this Act, if, on an application of the Child Marriage Prohibition Officer or on receipt of information through a complaint or otherwise from any person, a Judicial Magistrate of the first class or a Metropolitan Magistrate is satisfied that a child marriage in contravention of this Act has been arranged or is about to be solemnised, such Magistrate shall issue an injunction against any person including a member of an organisation or an association of persons prohibiting such marriage.

(*2*) A complaint under sub-section (*1*) may be made by any person having personal knowledge or reason to believe, and a non-governmental organisation having reasonable information, relating to the likelihood of taking place of solemnisation of a child marriage or child marriages.

(*3*) The Court of the Judicial Magistrate of the first class or the Metropolitan Magistrate may also take *suo motu* cognizance on the basis of any reliable report or information.

(*4*) For the purposes of preventing solemnisation of mass child marriages on certain days such as *Akshaya Trutiya,* the District Magistrate shall be deemed to be the Child Marriage Prohibition Officer with all powers as are conferred on a Child Marriage Prohibition Officer by or under this Act.

(*5*) The District Magistrate shall also have additional powers to stop or prevent solemnisation of child marriages and for this purpose, he may take all appropriate measures and use the minimum force required.

(*6*) No injunction under sub-section (*1*) shall be issued against any person or member of any organisation or association of persons unless the Court has previously given notice to such person, members of the organisation or association of persons, as the case may be, and has offered him or them an opportunity to show cause against the issue of the injunction:

Provided that in the case of any urgency, the Court shall have the power to issue an interim injunction without giving any notice under this section.

(*7*) An injunction issued under sub-section (*1*) may be confirmed or vacated after giving notice and hearing the party against whom the injunction was issued.

(*8*) The Court may either on its own motion or on the application of any person aggrieved, rescind or alter an injunction issued under sub-section (*1*).

(*9*) Where an application is received under sub-section (*1*), the Court shall afford the applicant an early opportunity of appearing before it either in person or by an advocate and if the Court, after hearing the applicant rejects the application wholly or in part, it shall record in writing its reasons for so doing.

(*10*) Whoever knowing that an injunction has been issued under sub-section (*1*) against him disobeys such injunction shall be punishable with imprisonment of either description for a term which may extend to two years or with fine which may extend to one lakh rupees or with both:

Provided that no woman shall be punishable with imprisonment.

Child marriages in contravention of injunction orders to be void.

14. Any child marriage solemnised in contravention of an injunction order issued under section 13, whether interim or final, shall be void *ab initio.*

Offences to be cognizable and non-bailable.

15. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, an offence punishable under this Act shall be cognizable and non-bailable. 2 of 1974.

16. (*1*) The State Government shall, by notification in the Official Gazette, appoint for the whole State, or such part thereof as may be specified in that notification, an officer or officers to be known as the Child Marriage Prohibition Officer having jurisdiction over the area or areas specified in the notification. Child Marriage Prohibition Officers.

(*2*) The State Government may also request a respectable member of the locality with a record of social service or an officer of the Gram Panchayat or Municipality or an officer of the Government or any public sector undertaking or an office bearer of any non-governmental organisation to assist the Child Marriage Prohibition Officer and such member, officer or office bearer, as the case may be, shall be bound to act accordingly.

(*3*) It shall be the duty of the Child Marriage Prohibition Officer—

(*a*) to prevent solemnisation of child marriages by taking such action as he may deem fit;

(*b*) to collect evidence for the effective prosecution of persons contravening the provisions of this Act;

(*c*) to advise either individual cases or counsel the residents of the locality generally not to indulge in promoting, helping, aiding or allowing the solemnisation of child marriages;

(*d*) to create awareness of the evil which results from child marriages;

(*e*) to sensitize the community on the issue of child marriages;

(*f*) to furnish such periodical returns and statistics as the State Government may direct; and

(*g*) to discharge such other functions and duties as may be assigned to him by the State Government.

(*4*) The State Government may, by notification in the Official Gazette, subject to such conditions and limitations, invest the Child Marriage Prohibition Officer with such powers of a police officer as may be specified in the notification and the Child Marriage Prohibition Officer shall exercise such powers subject to such conditions and limitations, as may be specified in the notification.

(*5*) The Child Marriage Prohibition Officer shall have the power to move the Court for an order under sections 4, 5 and 13 and along with the child under section 3.

17. The Child Marriage Prohibition Officers shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code. Child Marriage Prohibition Officers to be public servants.

45 of 1860

18. No suit, prosecution or other legal proceedings shall lie against the Child Marriage Prohibition Officer in respect of anything in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder. Protection of action taken in good faith.

19. (*1*) The State Government may, by notification in the Official Gazette, make rules for carrrying out the provisions of this Act. Power of State Government to make rules.

(*2*) Every rule made under this Act shall, as soon as may be after it is made, be laid before the State Legislature.

20. In the Hindu Marriage Act, 1955, in section 18, for clause (*a*), the follwing clause shall be substituted, namely:— Amendment of Act No. 25 of 1955

"(*a*) in the case of contravention of the condition specified in clause (*iii*) of section 5, with rigorous imprisonment which may extend to two years or with fine which may extend to one lakh rupees, or with both".

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Repeal and savings.

21. (*1*) The Child Marriage Restraint Act, 1929 is hereby repealed. 19 of 1929.

(*2*) Notwithstanding such repeal, all cases and other proceedings pending or continued under the said Act at the commencement of this Act shall be continued and disposed of in accordance with the provisions of the repealed Act, as if this Act had not been passed.

Sd/-

Dr. K. N. CHATURVEDI,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

H. D. VYAS,
Secretary to Government.

Government Central Press, Gandhinagar.

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PART - VI

Acts of Parliament and Ordinances promulgated by the President.

Legislative & Parliamentary Affairs Department

Sachivalaya, Gandhinagar, 6th August, 2007

No. RPB-28-2007/Act-1-07/E :- The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

(LEGISLATIVE DEPARTMENT)

New Delhi, the 2nd January, 2007, Pausa 12, 1928 (Saka)

The following Act of Parliament has received the assent of the President on the 29th December, 2006, is hereby published for general information :-

THE ADMINISTRATIVE TRIBUNALS (AMENDEMENT) ACT, 2006

An Act

(Act No. 1 of 2007) (29th December, 2006)

further to amend the Administrative Tribunals Act, 1985.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Administrative Tribunals (Amendment) Act, 2006.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act.

Amendment of section 3.

13 of 1985.

2. In section 3 of the Administrative Tribunals Act, 1985 (hereinafter referred to as the principal Act),—

(*1*) in clause (*i*), for the words "the Chairman or a Vice-Chairman", the words "the Chairman" shall be substituted.

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(*II*) in clause (*ia*), the words "and a Vice-Chairman" shall be omitted.

(*III*) for clause (*u*), the following clause shall be substituted, namely:—

'(*u*) "Vice-Chairman" means a Member who has been authorised by the appropriate Government to perform administrative functions at each of the places where Benches of the Tribunal have been set up.'.

Amendment of section 4.

3. In section 4 of the principal Act, in sub-section (*4*), for the words "Chairman, Vice-Chairman and other Members", the words "Chairman and other Members" shall be substituted.

Amendment of section 5.

4. In section 5 of the principal Act,—

(*a*) in sub-section (*1*), for the words "a Chairman and such number of Vice-Chairman and Judicial and Administrative Members", the words "a Chairman and such number of Judicial and Administrative Members" shall be substituted;

(*b*) in sub-section (*4*),—

(*i*) in clause (*b*), for the words "the Vice-Chairman or other Members", the words "a Member" shall be substituted;

(*ii*) in clause (*c*),—

(*I*) For the words "the Vice-Chairman or the Judicial Member", the words "the Judicial Member" shall be substituted;

(*II*) for the words "the Vice-Chairman or, as the case may be, the Judicial Member or the Administrative Member", the words "the Judicial Member or the Administrative Member, as the case may be" shall be substituted.

Substitution of new section for section 6.

5. For section 6 of the principal Act, the following section shall be substituted, namely:—

Qualifications for appointment as Chairman, Vice-Chairman and other members.

"6. (*1*) A person shall not be qualified for appointment as the Chairman unless he is, or has been, a Judge of a High Court:

Provided that a person appointed as Vice-Chairman before the commencement of this Act shall be qualified for appointment as Chairman if such person has held the office of the Vice-Chairman at least for a period of two years.

(*2*) A person shall not be qualified for appointment,—

(*a*) as an Administrative Member, unless he has held for at least two years the post of Secretary to the Government of India or any other post under the Central or State Government and carrying the scale of pay which is not less than that of a Secretary to the Government of India for at least two years or held a post of Additional Secretary to the Government of India for at least five years or any other post under the Central or State Government carrying the scale of pay which is not less than that of Additional Secretary to the Government of India at least for a period of five years:

Provided that the officers belonging to All-India services who were or are on Central deputation to a lower post shall be deemed to have held the post of Secretary or Additional Secretary, as the case may be, from the date such officers were granted proforma promotion or actual promotion whichever is earlier to the level of Secretary or Additional Secretary, as the case may be, and the period spent on Central deputation after such date shall count for qualifying service for the purposes of this clause;

(*b*) as a Judicial Member, unless he is or qualified to be a Judge of a High Court or he has for at least two years held the post of a Secretary to the Government of India in the Department of Legal Affairs or the Legislative

Department including Member-Secretary, Law Commission of India or held a post of Additional Secretary to the Government of India in the Department of Legal Affairs and Legislative Department at least for a period of five years.

(*3*) The Chairman and every other Member of the Central Administrative Tribunal shall be appointed after consultation with the Chief Justice of India by the President.

(*4*) Subject to the provision of sub-section (*3*), the Chairman and every other Member of an Administrative Tribunal for a State shall be appointed by the President after consultation with the Governor of the concerned State.

(*5*) The Chairman and every other Member of a Joint Administrative Tribunal shall, subject to the provisions of sub-section (*3*) and subject to the terms of the agreement between the participating State Governments published under sub-section (*3*) of section 4 of the principal Act, be appointed by the President after consultation with the Governors of the concerned States.

Explanation.— In computing for the purpose of this section, the period during which a person has held any post under the Central or State Government, there shall be included the period during which he has held any other post under the Central or State Government (including an office under this Act) carrying the same scale of pay as that of first mentioned post on a higher scale of pay.".

6. In section 7 of the principal Act, for the words "Vice-Chairman or, as the case may be, such one of the Vice-Chairman", the words "such one of the Members" shall be substituted. Amendment of section 7.

7. For section 8 of the principal Act, the following section shall be substituted, namely:— Substitution of new section for section 8.

"8. (*1*) The Chairman shall hold office as such for a term of five years from the date on which he enters upon his office: Term of office.

Provided that no Chairman shall hold office as such after he has attained the age of sixty-eight years.

(*2*) A Member shall hold office as such for a term of five years from the date on which he enters upon his office extendable by one more term of five years:

Provided that no Member shall hold office as such after he has attained the age of sixty-five years.

(*3*) The conditions of service of Chairman and Members shall be the same as applicable to Judges of the High Court.".

8. In section 9 of the principal Act, the word "Vice-Chairman" wherever it occurs shall be omitted. Amendment of section 9.

9. In section 10 of the principal Act,— Amendment of section 10.

(*i*) the word "Vice-Chairman" wherever it occurs shall be omitted;

(*ii*) after the proviso, the following proviso shall be inserted, namely:—

"Provided further that where a serving Government officer is appointed as a Member, he shall be deemed to have retired from the service to which he belonged on the date on which he assumed the charge of the Member but his subsequent service as Member shall, at his option, be reckoned as a post-retirement re-employment counting for pension and other retirement benefits in the service to which he belonged.".

10. After section 10 of the principal Act, the following section shall be inserted, namely:— Insertion of new section 10A.

"10A. The Chairman, Vice-Chairman and Member of a Tribunal appointed before the commencement of the Administrative Tribunals (Amendment) Act, 2006 shall continue to be governed by the provisions of the Act, and the rules made Saving terms and conditions of service of Vice-Chairman.

thereunder as if the Administrative Tribunals (Amendment) Act, 2006 had not come into force:

Provided that, however, such Chairman and the Members appointed before the coming into force of Administrative Tribunals (Amendment) Act, 2006, may on completion of their term or attainment of the age of sixty-five or sixty-two years, as the case may be, whichever is earlier may, if eligible in terms of section 8 as amended by the Administrative Tribunals (Amendment) Act, 2006 be considered for a fresh appointment in accordance with the selection procedure laid down for such appointments subject to the condition that the total term in office of the Chairman shall not exceed five years and that of the Members, ten years.".

Amendment of section 11.

11. In section 11 of the principal Act,—

(*I*) in clause (*b*), the words "Vice-Chairman or" shall be omitted;

(*II*) clause (*c*) and clause (*d*) shall be omitted; and

(*III*) in clause (*e*), the words "or Vice-Chairman" at both the places where they occur shall be omitted:

(*IV*) in clause (*f*), the words "Vice-Chairman" at both the places where they occur shall be omitted.

Substitution of new section for section 12.

12. For section 12 of the principal Act, the following section shall be substituted, namely:—

Financial and administrative powers of the Chairman...

"12. (*1*) The Chairman shall exercise such financial and administrative powers over the Benches as may be vested in him under the rules made by the appropriate Government.

(*2*) The appropriate Government may designate one or more Members to be the Vice-Chairman or, as the case may be, Vice-Chairmen thereof and the Members so designated shall exercise such of the powers and perform such of the functions of the Chairman as may be delegated to him by the Chairman by a general or special order in writing.".

Amendment of section 31.

13. In section 31 of the principal Act, for the words "Chairman, Vice-Chairman and other Members", the words "Chairman and other Members" shall be substituted.

Amendment of section 32.

14. In section 32 of the principal Act, the word "Vice-Chairman" wherever it occurs shall be omitted.

Amendment of section 35.

15. In section 35 of the principal Act, in sub-section (*2*),—

(*i*) in clause (*b*), for the words "Chairman, Vice-Chairman or other Member", the words "Chairman or other Member"shall be substituted;

(*ii*) in clause (*c*), for the words "Chairman, Vice-Chairman and other Members", the words "Chairman and other Members" shall be substituted.

Sd/-

Dr. K. N. CHATURVEDI,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

H. D. VYAS,
Secretary to Government.

Government Central Press, Gandhinagar.

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Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART - VI

Acts of Parliament and Ordinances promulgated by the President.

Legislative & Parliamentary Affairs Department

Sachivalaya, Gandhinagar, 6th August, 2007

No. RPB-34-2007/Act-7-07/E :- The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

(LEGISLATIVE DEPARTMENT)

New Delhi, the 11th January, 2007, Pausa 21, 1928 (Saka)

The following Act of Parliament has received the assent of the President on the 10th January, 2007, is hereby published for general information :-

THE ENGLISH AND FOREIGN LANGUAGES UNIVERSITY ACT, 2006

An Act

(Act No. 7 of 2007) (10th January, 2007)

to establish and incorporate a teaching University for promotion and development of English and other Foreign Languages and their Literature, and to provide for matters connected therewith or incidental thereto.

WHEREAS it is expedient to establish and incorporate a teaching University at Hyderabad, to dissolve the "Central Institute of English and Foreign Languages, Hyderabad", a Society registered under the Hyderabad Societies Registration Act, 1350 (Fasli) and to transfer to and vest in the said University all properties and rights of the said Society;

Act 1 of 1350 Fasli.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

Short title and commencement

1. (*1*) This Act may be called the English and Foreign Languages University Act, 2006.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

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Definitions.

2. In this Act, and in all Statutes made hereunder, unless the context otherwise requires,—

(*a*) "Academic Council" means the Academic Council of the University;

(*b*) "academic staff" means such categories of staff as are designated as academic staff by the Ordinances;

(*c*) "Board of Studies" means the Board of Studies of the University;

(*d*) "Chancellor", "Vice-Chancellor" and "Pro-Vice-Chancellor" mean, respectively, the Chancellor, Vice-Chancellor and Pro-Vice-Chancellor of the University;

(*e*) "College" means a College maintained by the University;

(*f*) "Court" means the Court of the University;

(*g*) "Department" means a Department of Studies and includes a Centre of Studies;

(*h*) "distance education system" means the system of imparting education through any means of communication, such as broadcasting, telecasting, correspondence courses, seminars, contact programmes or the combination of any two or more such means;

(*i*) "employee" means any person appointed by the University and includes teachers and other staff of the University;

(*j*) "Executive Council" means the Executive Council of the University;

(*k*) "Hall" means a unit of residence or of corporate life for the students of the University, or of a College or an Institution, maintained by the University;

(*l*) "Institution" means an academic institution, not being a College, maintained by the University;

(*m*) "Principal" means the head of a College or an Institution and includes where there is no Principal, the person for the time being duly appointed to act as Principal, and, in the absence of the Principal or the acting Principal, a Vice-Principal duly appointed as such;

(*n*) "recognised institution" means an institution of higher learning recognised by the University;

(*o*) "recognised teachers" means persons working in any recognised institution and recognised by the University for the purpose of imparting instruction or conducting research or both;

(*p*) "School" means a School of Studies of the University;

(*q*) "Statutes", "Ordinances" and "Regulations" mean, respectively, the Statutes, Ordinances and Regulations of the University for the time being in force;

(*r*) "teachers of the University" means Professors, Readers, Lecturers and such other persons as may be appointed for imparting instruction or conducting research in the University or in any College or Institution maintained by the University and are designated as teachers by the Ordinances;

(*s*) "University" means the Central Institute of English, Hyderabad Society founded by the Central Government at Hyderabad in 1958 as a Society registered under the Hyderabad Society Registration Act, 1350 (Fasli) which was renamed as Central Institute of English and Foreign Languages, Hyderabad Society in 1972 and declared in 1973 as an Institution deemed to be a University under section 3 of the University Grants Commission Act, 1956; and which is incorporated as a university under this Act.

Act 1 of 1350 Fasli.

3 of 1956.

3. (*1*) There shall be established, in the State of Andhra Pradesh, a University by the name of "The English and Foreign Languages University". Establishment of the University.

(*2*) The headquarters of the University shall be at Hyderabad, campuses at Lucknow and Shillong; and it may establish campuses at such other places as it may deem fit.

(*3*) The first Chancellor, the first Vice-Chancellor and the first members of the Court, the Executive Council and the Academic Council, and all persons who may hereafter become such officers or members, so long as they continue to hold such office or membership, shall constitute the University.

(*4*) The University shall have perpetual succession and a common seal and shall sue and be sued by the said name.

4. On and from the commencement of this Act,— Dissolution of the Central Institute of English and Foreign Languages, Hyderabad Society and transfer of all the properties and effect of establishment of the University.

(i) the Society known as the Central Institute of English and Foreign Languages, Hyderabad Society, shall be dissolved, and all properties, movable or immovable, and all rights, powers and privileges of the said Society shall be transferred to and vest in the University and shall be applied to the objects and purposes for which the University is established;

(*ii*) all debts, liabilities and obligations of the said Society shall be transferred to the University and shall thereafter be discharged and satisfied by it;

(*iii*) all references in any enactment to the said Society shall be construed as references to the University;

(*iv*) any will, deed or other document, whether made or executed before or after the commencement of this Act, which contains any bequest, gift or trust in favour of the said Society shall be construed as if the University was therein named instead of the Society;

(*v*) subject to the provisions of this Act, every person employed immediately before the commencement of this Act in the Central Institute of English and Foreign Languages, Hyderabad, shall hold such employment in the University by the same tenure and on the same terms and conditions and with the same rights and privileges as to pension and gratuity as he would have held under the Central Institute of English and Foreign Languages, Hyderabad, if this Act had not been passed.

5. The objects of the University shall be to disseminate and advance knowledge by providing instructional, research and extension facilities in the teaching of English and Foreign Languages and Literature in India; to train language teachers in methods and approaches appropriate to the Indian context; to provide expertise in language and teacher education to foreign professionals; to evolve indigenous ways of testing of languages proficiency; to make provisions for innovative teaching-learning materials in both print and electronic media; to take appropriate measures for inter-disciplinary studies and research in Literary and Cultural Studies; and to develop critical intercultural understanding of the civilizations. Objects of the University.

6. The University shall have the following powers, namely:— Powers of the University.

(*i*) to provide for instructions in the relevant branches of learning and to make provision for the advancement and dissemination of knowledge for furtherance of its objects;

(*ii*) to grant, subject to such conditions as the University may determine, diplomas or certificates to, and confer degrees or other academic distinctions on the basis of examinations, evaluation or any other method of testing, on persons, and to withdraw any such diplomas, certificates, degrees or other academic distinctions for good and sufficient cause;

(*iii*) to organise and to undertake extramural studies, training and extension services;

(*iv*) to confer honorary degrees or other distinctions in the manner prescribed by the Statutes;

(*v*) to provide facilities through the distance education system to such persons as it may determine;

(*vi*) to institute Principalships, Professorships, Readerships, Lecturerships and other teaching or academic positions, required by the University and to appoint persons to such Principalships, Professorships, Readerships, Lecturerships or other teaching or academic positions;

(*vii*) to recognise an institution of higher learning for such purposes as the University may determine and to withdraw such recognition;

(*viii*) to appoint persons working in any other University or educational institution as teachers of the University for a specified period;

(*ix*) to create administrative, ministerial and other posts and to make appointments thereto;

(*x*) to co-operate or collaborate or associate with any other University or authority or institution of higher learning in such manner and for such purposes as the University may determine;

(*xi*) to establish, with the prior approval of the Central Government, such Campuses, Centres and specialised laboratories or other units for research and instruction, within or outside India, as are, in the opinion of the University necessary for the furtherance of its objects;

(*xii*) to institute and award fellowships, scholarships, studentships, medals and prizes;

(*xiii*) to establish and maintain Colleges, Institutions and Halls;

(*xiv*) to make provision for research and advisory services and for that purpose to enter into such arrangements with other institutions, industrial or other organisations, as the University may deem necessary;

(*xv*) to organise and conduct refresher courses, workshops, seminars and other programmes for teachers, evaluators and other academic staff;

(*xvi*) to recognise, guide, supervise and control Halls not maintained by the University and other accommodation for students, and to withdraw any such recognition;

(*xvii*) to appoint on contract or otherwise visiting Professors, Emeritus Professors, Consultants, Scholars and such other persons who may contribute to the advancement of the objects of the University;

(*xviii*) to confer autonomous status on a College or an Institution or a Department, as the case may be, in accordance with the Statutes;

(*xix*) to determine standards of admission to the University, which may include examination, evaluation or any other method of testing;

(*xx*) to demand and receive payment of fees and other charges;

(*xxi*) to supervise the residences of the students of the University and to make arrangements for promoting their health and general welfare;

(*xxii*) to lay down conditions of service of all categories of employees, including their code of conduct;

(*xxiii*) to regulate and enforce discipline among the students and the employees, and to take such disciplinary measures in this regard as may be deemed by the University to be necessary;

(*xxiv*) to make arrangements for promoting the health and general welfare of the employees;

(*xxv*) to receive benefactions, donations and gifts and to acquire, hold and manage, and to dispose of, with the previous approval of the Central Government, any property, movable or immovable, including trust and endowment properties for the purposes of the University;

(*xxvi*) to borrow, with the approval of the Central Government, on the security of the property of the University, money for the purposes of the University;

(*xxvii*) to do all such other acts and things as may be necessary, incidental or conducive to the attainment of all or any of its objects.

Jurisdiction.

7. The jurisdiction of the University shall extend to the whole of India.

University open to all classes, castes and creeds.

8. The University shall be open to persons of either sex and of whatever caste, creed, race or class, and it shall not be lawful for the University to adopt or impose on any person, any test whatsoever of religious belief or profession in order to entitle him to be appointed as a teacher of the University or to hold any other office therein or be admitted as a student in the University or to graduate thereat or to enjoy or exercise any privilege thereof:

Provided that nothing in this section shall be deemed to prevent the University from making special provisions for the employment or admission of women, persons with disabilities or of persons belonging to the weaker sections of the society and, in particular, of the Scheduled Castes and the Scheduled Tribes.

Visitor.

9. (*1*) The President of India shall be the Visitor of the University.

(*2*) The Visitor may, from time to time, appoint one or more persons to review the work and progress of the University, including Colleges and Institutions maintained by it, and to submit a report thereon; and upon receipt of that report, the Visitor may, after obtaining the views of the Executive Council thereon through the Vice-Chancellor, take such action and issue such directions as he considers necessary in respect of any of the matters dealt with in the report and the University shall be bound to comply with such directions.

(*3*) The Visitor shall have the right to cause an inspection, to be made by such person or persons as he may direct, of the University, its buildings, libraries, laboratories and equipment and of any College or Institution maintained by the University; and also of the examinations, teaching and other work conducted or done by the University and to cause an inquiry to be made in like manner in respect of any matter connected with the administration or finances of the University, Colleges or Institutions.

(*4*) The Visitor shall, in every matter referred to in sub-section (3), give notice to the University of his intention to cause an inspection or inquiry to be made, and the University shall have the right to make such representations to the Visitor, as it may consider necessary.

(*5*) After considering the representations, if any, made by the University, the Visitor may cause to be made such inspection or inquiry as is referred to in sub-section (3).

(*6*) Where any inspection or inquiry has been caused to be made by the Visitor, the University shall be entitled to appoint a representative, who shall have the right to be present and be heard at such inspection or inquiry.

(*7*) The Visitor may address the Vice-Chancellor with reference to the result of such inspection or inquiry together with such views and advice with regard to the action to be taken thereon, as the Visitor may be pleased to offer, and on receipt of address made by the Visitor, the Vice-Chancellor shall communicate, to the Executive Council, the views of the Visitor with such advice as the Visitor may offer upon the action to be taken thereon.

(*8*) The Executive Council shall communicate through the Vice-Chancellor to the Visitor such action, if any, as it proposes to take or has been taken upon the result of such inspection or inquiry.

(*9*) Where the Executive Council does not, within a reasonable time, take action to the satisfaction of the Visitor, the Visitor may, after considering any explanation furnished or representation made by the Executive Council, issue such directions as he may think fit and the Executive Council shall comply with such directions.

(*10*) Without prejudice to the foregoing provisions of this section, the Visitor may, by order in writing, annul any proceeding of the University which is not in conformity with the Act, the Statutes or the Ordinances:

Provided that before making any such order, he shall call upon the Registrar to show cause why such an order should not be made, and, if any cause is shown within a reasonable time, he shall consider the same.

(*11*) The Visitor shall have such other powers as may be prescribed by the Statutes.

The Chief Rector.

10. The Governor of the State of Andhra Pradesh shall be the Chief Rector of the University.

Officers of the University.

11. The following shall be the officers of the University,—

(*1*) the Chancellor;

(*2*) the Vice-Chancellor;

(*3*) the Pro-Vice-Chancellor;

(*4*) the Deans of Schools;

(*5*) the Registrar;

(*6*) the Finance Officer;

(*7*) the Controller of Examinations;

(*8*) the Librarian; and

(*9*) such other officers as may be declared by the Statutes to be officers of the University.

The Chancellor.

12. (*1*) The Chancellor shall be appointed by the Visitor in such manner as may be prescribed by the Statutes.

(*2*) The Chancellor shall, by virtue of his office, be the head of the University and shall, if present, preside at the Convocations of the University held for conferring degrees and meetings of the Court.

The Vice-Chancellor.

13. (*1*) The Vice-Chancellor shall be appointed by the Visitor in such manner and on such terms and conditions of service as may be prescribed by the Statutes.

(*2*) The Vice-Chancellor shall be the principal executive and academic officer of the University and shall exercise general supervision and control over the affairs of the University and give effect to the decisions of all the authorities of the University.

(*3*) The Vice-Chancellor may, if he is of opinion that immediate action is necessary on any matter, exercise any power conferred on any authority of the University by or under this Act and shall report to such authority at its next meeting the action taken by him on such matter:

Provided that if the authority concerned is of opinion that such action ought not to have been taken, it may refer the matter to the Visitor whose decision thereon shall be final:

Provided further that any person in the service of the University who is aggrieved by the action taken by the Vice-Chancellor under this sub-section shall have the right to represent against such action to the Executive Council within three months from the date on which decision on such action is communicated to him and thereupon the Executive Council may confirm, modify or reverse the action taken by the Vice-Chancellor.

(*4*) The Vice-Chancellor, if he is of the opinion that any decision of any authority of the University is beyond the powers of the authority conferred by the provisions of this Act, the Statutes or the Ordinances or that any decision taken is not in the interest of the University, may ask the authority concerned to review its decision within sixty days of such decision and if the authority refuses to review the decision either in whole or in part or no decision is taken by it within the said period of sixty days, the matter shall be referred to the Visitor whose decision thereon shall be final.

(*5*) The Vice-Chancellor shall exercise such other powers and perform such other duties as may be prescribed by the Statutes or the Ordinances.

14. The Pro-Vice-Chancellor shall be appointed in such manner and on such terms and conditions of service, and shall exercise such powers and perform such duties, as may be prescribed by the Statutes. The Pro-Vice-Chancellor.

15. Every Dean of School shall be appointed in such manner and shall exercise such powers and perform such duties as may be prescribed by the Statutes. The Deans of Schools.

16. (*1*) The Registrar shall be appointed in such manner and on such terms and conditions of service as may be prescribed by the Statutes. The Registrar.

(*2*) The Registrar shall have the power to enter into agreements, sign documents and authenticate records on behalf of the University and shall exercise such powers and perform such duties as may be prescribed by the Statutes.

17. The Finance Officer shall be appointed in such manner and on such terms and conditions of service, and shall exercise such powers and perform such duties, as may be prescribed by the Statutes. The Finance Officer.

18. The Controller of Examinations shall be appointed in such manner and shall exercise such powers and perform such duties, as may be prescribed by the Statutes. The Controller of Examinations.

19. The Librarian shall be appointed in such manner and on such terms and conditions of service, and shall exercise such powers and perform such duties, as may be prescribed by the Statutes. The Librarian.

20. The manner of appointment and powers and duties of other officers of the University shall be prescribed by the Statutes. Other officers.

21. The following shall be the authorities of the University:— Authorities of the University.

(*1*) the Court;

(*2*) the Executive Council;

(*3*) the Academic Council;

(*4*) the Schools of Studies;

(*5*) the Finance Committee; and

(*6*) such other authorities as may be declared by the Statutes to be the authorities of the University.

22. (*1*) The constitution of the Court and the term of office of its members shall be prescribed by the Statutes: The Court.

Provided that such number of members as may be prescribed by the Statutes shall be elected from among the teachers, employees and students of the University.

(*2*) Subject to the provisions of this Act, the Court shall have the following powers and functions, namely:—

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(*a*) to review, from time to time, the broad policies and programmes of the University and to suggest measures for the improvement and development of the University;

(*b*) to consider and pass resolutions on the annual report and the annual accounts of the University and the audit report on such accounts;

(*c*) to advise the Visitor in respect of any matter which may be referred to it for advice; and

(*d*) to perform such other functions as may be prescribed by the Statutes.

The Executive Council.

23. (*1*) The Executive Council shall be the principal executive body of the University.

(*2*) The constitution of the Executive Council, the term of office of its members and its powers and functions shall be prescribed by the Statutes:

Provided that such number of members as may be prescribed by the Statutes shall be from among the elected members of the Court.

The Academic Council.

24. (*1*) The Academic Council shall be the principal academic body of the University and shall, subject to the provisions of this Act, the Statutes and the Ordinances, coordinate and exercise general supervision over the academic policies of the University.

(*2*) The constitution of the Academic Council, the term of office of its members and its powers and functions shall be prescribed by the Statutes:

Provided that such number of members as may be prescribed by the Statutes shall be from among the elected members of the Court who are teachers of the University.

The Schools of Studies.

25. The constitution, powers and functions of the Schools of Studies shall be prescribed by the Statutes.

The Finance Committee.

26. The constitution, powers and functions of the Finance Committee shall be prescribed by the Statutes.

Other authorities.

27. The constitution, powers and functions of other authorities, as may be declared by the Statutes to be the authorities of the University, shall be prescribed by the Statutes.

Powers to make Statutes.

28. Subject to the provisions of this Act, the Statutes may provide for all or any of the following matters, namely:—

(*a*) the constitution, powers and functions of authorities and other bodies of the University, as may be constituted from time to time;

(*b*) the appointment and continuance in office of the members of the said authorities and bodies, the filling up of vacancies of members, and all other matters relating to those authorities and other bodies for which it may be necessary or desirable to provide;

(*c*) the appointment, powers and duties of the officers of the University and their emoluments;

(*d*) the appointment of teachers, academic staff and other employees of the University, their emoluments and conditions of service;

(*e*) the recognition of persons as recognized teachers;

(*f*) the appointment of teachers, academic staff working in any other University or organisation for a specific period for undertaking a joint project;

(*g*) the conditions of service of employees including provision for pension, insurance and provident fund, the manner of termination of service and disciplinary action relating to employees of the University;

(*h*) the principles governing the seniority of service of the employees of the University;

(*i*) the procedure for arbitration in cases of dispute between employees or students and the University;

(*j*) the procedure for appeal to the Executive Council by any employee or student against the action of any officer or authority of the University;

(*k*) the conferment of autonomous status on a College or an Institution or a Department;

(*l*) the establishment and abolition of Schools, Departments, Centres, Halls, Colleges and Institutions;

(*m*) the grant and withdrawal of recognition to Institutions;

(*n*) the conferment of honorary degrees;

(*o*) the withdrawal of degrees, diplomas, certificates and other academic distinctions;

(*p*) the management of Colleges and Institutions established by the University;

(*q*) the delegation of powers vested in the authorities or officers of the University;

(*r*) the maintenance of discipline among the employees and students;

(*s*) all other matters which by this Act are to be or may be provided for by the Statutes.

Statutes how to be made.

29. (*1*) The first Statutes are those set out in the Schedule.

(*2*) The Executive Council may, from time to time, make new or additional Statutes or may amend or repeal the Statutes referred to in sub-section (*1*):

Provided that the Executive Council shall not make, amend or repeal any Statutes affecting the status, powers or constitution of any authority of the University until such authority has been given an opportunity of expressing an opinion in writing on the proposed changes, and any opinion so expressed shall be considered by the Executive Council.

(*3*) Every new Statute or addition to the Statutes or any amendment or repeal of a Statute shall require the assent of the Visitor who may assent thereto or withhold assent or remit to the Executive Council for re-consideration.

(*4*) A new Statute or a Statute amending or repealing an existing Statute shall have no validity unless it has been assented to by the Visitor.

(*5*) Notwithstanding anything contained in the foregoing sub-sections, the Visitor may make new or additional Statutes or amend or repeal the Statutes referred to in sub-section (*1*), during the period of three years immediately after the commencement of this Act:

Provided that the Visitor may, on the expiry of the said period of three years, make, within one year from the date of such expiry, such detailed Statutes as he may consider necessary and such detailed Statutes shall be laid before both Houses of Parliament.

(*6*) Notwithstanding anything contained in the foregoing sub-sections, the Visitor may direct the University to make provisions in the Statutes in respect of any matter specified by him and if the Executive Council is unable to implement such direction within sixty days of its receipt, the Visitor may, after considering the reasons, if any, communicated by the Executive Council for its inability to comply with such direction, make or amend the Statutes suitably.

Power to make Ordinances.

30. (*1*) Subject to the provisions of this Act and the Statutes, the Ordinances may provide for all or any of the following matters, namely:—

(*a*) the admission of students to the University and their enrolment as such;

(*b*) the courses of study to be laid down for all degrees, diplomas and certificates of the University;

(*c*) the medium of instruction and examination;

(*d*) the award of degrees, diplomas, certificates and other academic distinctions, qualifications for the same and the means to be taken relating to the granting and obtaining of the same;

(*e*) the fees to be charged for courses of study in the University and for admission to the examinations, degrees and diplomas of the University;

(*f*) the conditions for award of fellowships, scholarships, studentships, medals and prizes;

(*g*) the conduct of examinations, including the term of office and manner of appointment and the duties of examining bodies, examiners and moderators;

(*h*) the conditions of residence of the students of the University;

(*i*) the special arrangements, if any, which may be made for the residence and teaching of women students and the prescribing of special courses of studies for them;

(*j*) the manner of co-operation and collaboration with other Universities, institutions and other agencies not involving the carrying on of any activity for profit including learned bodies or associations;

(*k*) the creation, composition and functions of any other body which is considered necessary for improving the academic life of the University;

(*l*) the institution of fellowships, scholarships, studentships, medals and prizes;

(*m*) the setting up of a machinery for redressal of grievances of employees; and

(*n*) all other matters which by this Act or the Statutes, are to be or may be, provided for by the Ordinances.

(*2*) The first Ordinances shall be made by the Vice-Chancellor with the previous approval of the Central Government and the Ordinances so made may be amended, repealed or added to at any time by the Executive Council in the manner prescribed by the Statutes:

Provided that till such time as the first Ordinances are not so made by the Vice-Chancellor, in respect of the matters that are to be provided for by the Ordinances under this Act and Statutes, the relevant provisions of the rules and the bye-laws of the Central Institute of English and Foreign Languages, Hyderabad in force immediately before the commencement of this Act shall be applicable in so far as they are not inconsistent with the provisions of this Act and the Statutes.

Regulations.

31. The authorities of the University may make Regulations, consistent with this Act, the Statutes and the Ordinances for the conduct of their own business and that of the Committees, if any, appointed by them and not provided for by this Act, the Statutes or the Ordinances, in the manner prescribed by the Statutes.

Annual report.

32. (*1*) The annual report of the University shall be prepared under the directions of the Executive Council, which shall include, among other matters, the steps taken by the University towards the fulfilment of its objects and shall be submitted to the Court on or after such date as may be prescribed by the Statutes and the Court shall consider the report in its annual meeting.

(*2*) The Court shall submit the annual report to the Visitor along with its comments, if any.

(*3*) A copy of the annual report, as prepared under sub-section (*1*), shall also be submitted to the Central Government, which shall, as soon as may be, cause the same to be laid before both Houses of Parliament.

Annual accounts.

33. (*1*) The annual accounts and balance-sheet of the University shall be prepared under the directions of the Executive Council and shall, once at least every year and at

intervals of not more than fifteen months, be audited by the Comptroller and Auditor-General of India or by such persons as he may authorise in this behalf.

(2) A copy of the annual accounts together with the audit report thereon shall be submitted to the Court and the Visitor along with the observations of the Executive Council.

(3) Any observations made by the Visitor on the annual accounts shall be brought to the notice of the Court and the observations of the Court, if any, shall, after being considered by the Executive Council, be submitted to the Visitor.

(4) A copy of the annual accounts together with the audit report as submitted to the Visitor, shall also be submitted to the Central Government, which shall, as soon as may be, cause the same to be laid before both Houses of Parliament.

(5) The audited annual accounts after having been laid before both Houses of Parliament shall be published in the Gazette of India.

Returns and information.

34. The University shall furnish to the Central Government such returns or other information with respect to its property or activities as the Central Government may, from time to time, require.

Conditions of service of employees.

35. (1) Every employee of the University shall be appointed under a written contract, which shall be lodged with the University and a copy of which shall be furnished to the employee concerned.

(2) Any dispute arising out of the contract between the University and any employee shall, at the request of the employee, be referred to a Tribunal of Arbitration consisting of one member appointed by the Executive Council, one member nominated by the employee concerned and an umpire appointed by the Visitor.

(3) The decision of the Tribunal shall be final, and no suit shall lie in any civil court in respect of the matters decided by the Tribunal:

Provided that nothing in this sub-section shall preclude the employee from availing of the judicial remedies available under articles 32 and 226 of the Constitution.

(4) Every request made by the employee under sub-section (2), shall be deemed to be a submission to arbitration upon the terms of this section within the meaning of the Arbitration and Conciliation Act, 1996.

26 of 1996.

(5) The procedure for regulating the work of the Tribunal shall be prescribed by the Statutes.

Procedure of appeal and arbitration in disciplinary cases against students.

36. (1) Any student or candidate for an examination whose name has been removed from the rolls of the University by the orders or resolution of the Vice-Chancellor, Discipline Committee or Examination Committee, as the case may be, and who has been debarred from appearing at the examinations of the University for more than one year, may, within ten days of the date of receipt of such orders or copy of such resolution by him, appeal to the Executive Council and the Executive Council may confirm, modify or reverse the decision of the Vice-Chancellor or the Committee, as the case may be.

(2) Any dispute arising out of any disciplinary action taken by the University against a student shall, at the request of such student, be referred to a Tribunal of Arbitration and the provisions of sub-sections (2), (3), (4) and (5) of section 35 shall, as far as may be, apply to a reference made under this sub-section.

Right to appeal.

37. Every employee or student of the University or a College or an Institution maintained by the University shall, notwithstanding anything contained in this Act, have a right to appeal within such time as may be prescribed by the Statutes, to the Executive Council against the decision of any officer or authority of the University or of the Principal of any College or an Institution, as the case may be, and thereupon the Executive Council may confirm, modify or reverse the decision appealed against.

Provident and Pension Funds.

38. *(1)* The University shall constitute for the benefit of its employees such provident or pension fund or provide such insurance schemes as it may deem fit in such manner and subject to such conditions as may be prescribed by the Statutes.

(2) Where such provident fund or pension fund has been so constituted, the Central Government may declare that the provisions of the Provident Funds Act, 1925, shall apply to such fund, as if it were a Government provident fund. 19 of 1925.

Disputes as to constitution of University authorities and bodies.

39. If any question arises as to whether any person has been duly elected or appointed as, or is entitled to be, a member of any authority or other body of the University, the matter shall be referred to the Visitor whose decision thereon shall be final.

Filling of casual vacancies.

40. All casual vacancies among the members (other than *ex officio* members) of any authority or other body of the University shall be filled, as soon as may be, by the person or body who appoints, elects or co-opts the member whose place has become vacant and person appointed, elected or co-opted to a casual vacancy shall be a member of such authority or body for the residue of the term for which the person whose place he fills would have been a member.

Proceedings of University authorities or bodies not invalidated by vacancies.

41. No act or proceedings of any authority or other body of the University shall be invalid merely by reason of the existence of a vacancy or vacancies among its members.

Protection of action taken in good faith.

42. No suit or other legal proceeding shall lie against any officer or other employee of the University for anything which is in good faith done or intended to be done in pursuance of any of the provisions of this Act, the Statutes or the Ordinances.

Mode of proof of University record.

43. Notwithstanding anything contained in the Indian Evidence Act, 1872 or in any other law for the time being in force, a copy of any receipt, application, notice, order, proceeding or resolution of any authority or other body of the University, or any other document in possession of the University, or any entry in any register duly maintained by the University, if certified by the Registrar, shall be received as *prima facie* evidence of such receipt, application, notice, order, proceeding, resolution or document or the existence of entry in the register and shall be admitted as evidence of the matters and transactions therein where the original thereof would, if produced, have been admissible in evidence. 1 of 1872.

Power to remove difficulties.

44. *(1)* If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made under this section after the expiry of three years from the commencement of this Act.

(2) Every order made under sub-section *(1)* shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the order or both Houses agree that the order should not be made, the order shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that order.

Statutes, Ordinances and Regulations to be published in the Official Gazette and to be laid before Parliament.

45. *(1)* Every Statute, Ordinance or Regulation made under this Act shall be published in the Official Gazette.

(2) Every Statute, Ordinance or Regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive

sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the Statute, Ordinance or Regulation or both Houses agree that the Statute, Ordinance or Regulation should not be made, the Statute, Ordinance or Regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that Statute, Ordinance or Regulation.

(*3*) The power to make Statutes, Ordinances or Regulations shall include the power to give retrospective effect, from a date not earlier than the date of commencement of this Act, to the Statutes, Ordinances or Regulations or any of them but no retrospective effect shall be given to any Statute, Ordinance or Regulation so as to prejudicially affect the interests of any person to whom such Statute, Ordinance or Regulation may be applicable.

Transitional provisions.

46. Notwithstanding anything contained in this Act and the Statutes,—

(*a*) the first Chancellor and the first Vice-Chancellor shall be appointed by the Central Government in such manner and on such conditions as may be deemed fit and each of the said officers shall hold office for such term, not exceeding five years, as may be specified by the Central Government;

(*b*) the first Registrar and the first Finance Officer shall be appointed by the Central Government and each of the said officers shall hold office for a term of three years;

(*c*) the first Court and the first Executive Council shall consist of not more than thirty members and eleven members, respectively, who shall be nominated by the Central Government and shall hold office for a term of three years;

(*d*) the first Academic Council shall consist of not more than twenty-one members, who shall be nominated by the Central Government and they shall hold office for a term of three years:

Provided that if any vacancy occurs in the above offices or authorities, the same shall be filled by appointment or nomination, as the case may be, by the Central Government, and the person so appointed or nominated shall hold office for so long as the officer or member in whose place he is appointed or nominated would have held office, if such vacancy had not occurred.

THE SCHEDULE

(*See* section 29)

THE STATUTES OF THE UNIVERSITY

The Chancellor.

1. (*1*) The Chancellor shall be appointed by the Visitor from a panel of not less than three persons recommended by the Executive Council from amongst persons of eminence in the academic or public life of the country:

Provided that if the Visitor does not approve of any of the persons so recommended, he may call for fresh recommendations from the Executive Council.

(*2*) The Chancellor shall hold office for a term of five years and shall not be eligible for re-appointment:

Provided that notwithstanding the expiry of his term of office, the Chancellor shall continue to hold office until his successor enters upon his office.

The Vice-Chancellor.

2. (*1*) The Vice-Chancellor shall be appointed by the Visitor from a panel of not less than three persons who shall be recommended by a Committee as constituted under clause (*2*):

Provided that if the Visitor does not approve of any of the persons included in the panel, he may call for an extended or a fresh panel.

(*2*) The Committee referred to in clause (*1*) shall consist of three persons, out of whom two shall be nominated by the Executive Council and one by the Visitor and the nominee of the Visitor shall be the convener of the Committee:

Provided that none of the members of the Committee shall be an employee of the University or a College or an Institution maintained by the University or a member of any authority of the University.

(*3*) The Vice-Chancellor shall be a whole-time salaried officer of the University.

(*4*) The Vice-Chancellor shall hold office for a term of five years from the date on which he enters upon his office, or until he attains the age of sixty-five years, whichever is earlier, and he shall not be eligible for re-appointment:

Provided that notwithstanding the expiry of the said period of five years, he shall continue in office until his successor is appointed and enters upon his office:

Provided further that the Visitor may direct any Vice-Chancellor after his term has expired, to continue in office for such period, not exceeding a total period of one year, as may be specified by him or till his successor is appointed and enters upon his office, whichever is earlier.

(*5*) The emoluments and other conditions of service of the Vice-Chancellor shall be as follows: —

(*i*) the Vice-Chancellor shall be paid a monthly salary and allowances, other than house rent allowance, at the rates fixed by the Central Government from time to time and he shall be entitled, without payment of rent, to use a furnished residence throughout his term of office and no charge shall fall on the Vice-Chancellor in respect of the maintenance of such residence;

(*ii*) the Vice-Chancellor shall be entitled to such terminal benefits and allowances as may be fixed by the Central Government from time to time:

Provided that where an employee of the University, or a college or an institution maintained by, or admitted to the privileges of the University, or of any other University or any college or institution maintained by or admitted to the privileges of such other University, is appointed as the Vice-Chancellor, he may be allowed to continue to contribute to any provident fund of which he is a member and the University shall contribute to the account of such person in that provident fund at the same rate at which the person had been contributing immediately before his appointment as the Vice-Chancellor:

Provided further that where such employee had been member of any pension scheme, the University shall make the necessary contribution to such scheme;

(*iii*) the Vice-Chancellor shall be entitled to travelling allowance at such rates as may be fixed by the Executive Council;

(*iv*) the Vice-Chancellor shall be entitled to leave on full pay at the rate of thirty days in a calendar year and the leave shall be credited to his account in advance in two half-yearly instalments of fifteen days each on the first day of January and July every year:

Provided that if the Vice-Chancellor assumes or relinquishes charge of the office of the Vice-Chancellor during the currency of a half year, the leave shall be credited proportionately at the rate of two and-a-half days for each completed month of service;

(*v*) in addition to the leave referred to in sub-clause (*iv*), the Vice-Chancellor shall also be entitled to half-pay leave at the rate of twenty days for each completed year of service, and half-pay leave may also be availed of as commuted leave on full pay on medical certificate:

Provided that when such commuted leave is availed of, twice the amount of half-pay leave shall be debited against half-pay leave due.

(*6*) If the office of the Vice-Chancellor becomes vacant due to death, resignation or otherwise, or if he is unable to perform his duties due to ill-health or any other cause, the Pro-Vice-Chancellor shall perform the duties of the Vice-Chancellor:

Provided that if the Pro-Vice-Chancellor is not available, the senior most Professor shall perform the duties of the Vice-Chancellor until a new Vice-Chancellor assumes office or until the existing Vice-Chancellor resumes the duties of his office, as the case may be.

Powers and duties of the Vice-Chancellor.

3. (*1*) The Vice-Chancellor shall be the *ex officio* Chairman of the Executive Council, the Academic Council and the Finance Committee and shall, in the absence of the Chancellor, preside at the Convocations held for conferring degrees and at meetings of the Court.

(*2*) The Vice-Chancellor shall be entitled to be present at, and address, any meeting of any authority or other body of the University, but shall not be entitled to vote thereat unless he is a member of such authority or body.

(*3*) It shall be the duty of the Vice-Chancellor to see that this Act, the Statutes, the Ordinances and the Regulations are duly observed and he shall have all the powers necessary to ensure such observance.

(*4*) The Vice-Chancellor shall have all the powers necessary for the proper maintenance of discipline in the University and he may delegate any such powers to such person or persons as he deems fit.

(*5*) The Vice-Chancellor shall have the power to convene or cause to be convened the meetings of the Executive Council, the Academic Council and the Finance Committee.

The Pro-Vice-Chancellor.

4. (*1*) The Pro-Vice-Chancellor shall be appointed by the Executive Council on the recommendation of the Vice-Chancellor:

Provided that where the recommendation of the Vice-Chancellor is not accepted by

the Executive Council, the matter shall be referred to the Visitor who may either appoint the person recommended by the Vice-Chancellor or ask the Vice-Chancellor to recommend another person to the Executive Council:

Provided further that the Executive Council may, on the recommendation of the Vice-Chancellor, appoint a Professor to discharge the duties of a Pro-Vice-Chancellor in addition to his own duties as a Professor.

(*2*) The term of office of a Pro-Vice-Chancellor shall be such as may be decided by the Executive Council but it shall not in any case exceed five years or until the expiration of the term of office of the Vice-Chancellor, whichever is earlier:

Provided that a Pro-Vice-Chancellor whose term of office has expired shall be eligible for re-appointment:

Provided further that, in any case, a Pro-Vice-Chancellor shall retire on attaining the age of sixty-five years:

Provided also that a Pro-Vice-Chancellor shall, while discharging the duties of the Vice-Chancellor under clause (*6*) of Statute 2, continue in office notwithstanding the expiration of his term of office as Pro-Vice-Chancellor, until the Vice-Chancellor resumes office or a new Vice-Chancellor assumes office, as the case may be.

(*3*) The emoluments and other terms and conditions of service of a Pro-Vice-Chancellor shall be such as may be prescribed by the Ordinances.

(*4*) The Pro-Vice-Chancellor shall assist the Vice-Chancellor in respect of such matters as may be specified by the Vice-Chancellor in this behalf, from time to time, and shall also exercise such powers and perform such duties as may be assigned or delegated to him by the Vice-Chancellor.

Deans of Schools.

5. (*1*) Every Dean of School shall be appointed by the Vice-Chancellor from amongst the Professors in the School by rotation in the order of seniority for a period of three years:

Provided that in case there is only one Professor or no Professor in a School, the Dean shall be appointed, for the time being, from amongst the Professor, if any, and the Readers in the School by rotation in the order of seniority:

Provided further that a Dean on attaining the age of sixty-two years shall cease to hold office as such.

(*2*) When the office of the Dean is vacant or when the Dean is, by reason of illness, absence or any other cause, unable to perform duties of his office, the duties of the office shall be performed by the senior-most Professor or Reader, as the case may be, in the School.

(*3*) The Dean shall be the Head of the School and shall be responsible for the conduct and maintenance of the standards of teaching and research in the School and shall have such other functions as may be prescribed by the Ordinances.

(*4*) The Dean shall have the right to be present and to speak at any meeting of the Boards of Studies or Committees of the School, as the case may be, but shall not have the right to vote thereat unless he is a member thereof.

The Registrar.

6. (*1*) The Registrar shall be appointed by the Executive Council on the recommendation of a Selection Committee constituted for the purpose and shall be a whole-time salaried officer of the University.

(*2*) He shall be appointed for a term of five years and shall be eligible for re-appointment.

(*3*) The emoluments and other terms and conditions of service of the Registrar shall be such as may be prescribed by the Executive Council from time to time;

Provided that the Registrar shall retire on attaining the age of sixty-two years:

Provided further that a Registrar shall, notwithstanding his attaining the age of sixty-two years, continue in office until his successor is appointed and enters upon his office or until the expiry of a period of one year, whichever is earlier.

(*4*) When the office of the Registrar is vacant or when the Registrar is, by reason of illness, absence or any other cause, unable to perform the duties of his office, the duties of the office shall be performed by such person as the Vice-Chancellor may appoint for the purpose.

(*5*) (*a*) The Registrar shall have power to take disciplinary action against such of the employees, excluding teachers and other academic staff, as may be specified in the order of the Executive Council and to suspend them pending inquiry, to administer warnings to them or to impose on them the penalty of censure or the withholding of increment:

Provided that no such penalty shall be imposed unless the person has been given a reasonable opportunity of showing cause against the action proposed to be taken in regard to him.

(*b*) An appeal shall lie to the Vice-Chancellor against any order of the Registrar imposing any of the penalties specified in sub-clause (*a*).

(*c*) In a case where the inquiry discloses that a punishment beyond the power of the Registrar is called for, the Registrar shall, upon the concluding of the inquiry, make a report to the Vice-Chancellor along with his recommendations:

Provided that an appeal shall lie to the Executive Council against an order of the Vice-Chancellor imposing any penalty.

(*6*) The Registrar shall be the *ex officio* Secretary of the Executive Council and the Academic Council, but shall not be deemed to be a member of any of these authorities and he shall be the *ex officio* Member-Secretary of the Court.

(*7*) It shall be the duty of the Registrar—

(*a*) to be the custodian of the records, the common seal and such other property of the University as the Executive Council shall commit to his charge;

(*b*) to issue all notices convening meetings of the Court, the Executive Council, the Academic Council and of any Committees appointed by those authorities;

(*c*) to keep the minutes of all the meetings of the Court, the Executive Council, the Academic Council and of any Committees appointed by those authorities;

(*d*) to conduct the official correspondence of the Court, the Executive Council and the Academic Council;

(*e*) to supply to the Visitor copies of the agenda of the meetings of the authorities of the University as soon as they are issued and the minutes of such meetings;

(*f*) to represent the University in suits or proceedings by or against the University, sign powers of attorney and verify pleadings or depute his representative for the purpose; and

(*g*) to perform such other duties as may be specified in the Statutes, the Ordinances or the Regulations or as may be required from time to time by the Executive Council or the Vice-Chancellor.

7. (*1*) The Finance Officer shall be appointed by the Executive Council on the recommendations of a Selection Committee constituted for the purpose and he shall be a whole-time salaried officer of the University. The Finance Officer.

(*2*) The Finance Officer shall be appointed for a term of five years and shall be eligible for re-appointment.

(*3*) The emoluments and other terms and conditions of service of the Finance Officer shall be such as may be prescribed by the Executive Council from time to time:

Provided that the Finance Officer shall retire on attaining the age of sixty-two years:

Provided further that the Finance Officer shall, notwithstanding his attaining the age of sixty-two years, continue in office until his successor is appointed and enters upon his office or until the expiry of a period of one year, whichever is earlier.

(*4*) When the office of the Finance Officer is vacant or when the Finance Officer is, by reason of illness, absence or any other cause, unable to perform the duties of his office, the duties of the office shall be performed by such person as the Vice-Chancellor may appoint for the purpose.

(*5*) The Finance Officer shall be the *ex officio* Secretary of the Finance Committee, but shall not be deemed to be a member of such Committee.

(*6*) The Finance Officer shall—

(*a*) exercise general supervision over the funds of the University and shall advise it as regards its financial policy; and

(*b*) perform such other financial functions as may be assigned to him by the Executive Council or as may be prescribed by the Statutes or the Ordinances.

(*7*) Subject to the control of the Executive Council, the Finance Officer shall—

(*a*) hold and manage the property and investments of the University including trust and endowed property;

(*b*) ensure that the limits fixed by the Executive Council for recurring and non-recurring expenditure for a year are not exceeded and that all moneys are expended on the purpose for which they are granted or allotted;

(*c*) be responsible for the preparation of annual accounts and the budget of the University and for their presentation to the Executive Council;

(*d*) keep a constant watch on the state of the cash and bank balances and on the state of investments;

(*e*) watch the progress of the collection of revenue and advise on the methods of collection employed;

(*f*) ensure that the registers of buildings, land, furniture and equipment are maintained up-to-date and that stock-checking is conducted, of equipment and other consumable materials in all offices, Departments, University, Institutes, Centres and Specialised Laboratories;

(*g*) bring to the notice of the Vice-Chancellor unauthorised expenditure and other financial irregularities and suggest disciplinary action against persons at fault; and

(*h*) call for from any office, Department, Centre, Laboratory, College or Institution maintained by the University any information or returns that he may consider necessary for the performance of his duties.

(*8*) Any receipt given by the Finance Officer or the person or persons duly authorised in this behalf by the Executive Council for any money payable to the University shall be sufficient discharge for payment of such money.

8. (*1*) The Controller of Examinations shall be appointed by the Executive Council on the recommendations of a Selection Committee constituted for the purpose and he shall be a whole-time salaried officer of the University. The Controller of Examinations.

(*2*) The Controller of Examinations shall be appointed for a term of five years and shall be eligible for re-appointment.

(*3*) The emoluments and other terms and conditions of service of the Controller of Examinations shall be such as may be prescribed by the Executive Council from time to time:

Provided that the Controller of Examinations shall retire on attaining the age of sixty-two years:

Provided further that the Controller of Examinations shall, notwithstanding his attaining the age of sixty-two years, continue in office until his successor is appointed and enters upon his office or until the expiry of a period of one year, whichever is earlier.

(*4*) When the office of the Controller of Examinations is vacant or when the Controller of Examinations is, by reason of illness, absence or any other cause, unable to perform the duties of his office, the duties of the office shall be performed by such person as the Vice-Chancellor may appoint for the purpose.

(*5*) The Controller of Examinations shall arrange for and superintend the examinations of the University in the manner prescribed by the Ordinances.

9. (*1*) The Librarian shall be appointed by the Executive Council on the recommendations of the Selection Committee constituted for the purpose and he shall be a whole-time salaried officer of the University. The Librarian.

(*2*) The Librarian shall exercise such powers and perform such duties as may be assigned to him by the Executive Council.

10. (*1*) An annual meeting of the Court shall be held on a date to be fixed by the Executive Council unless some other date has been fixed by the Court in respect of any year. The Court.

(*2*) At the annual meeting of the Court, a report on the working of the University during the previous year, together with a statement of the receipts and expenditure, the balance sheet as audited, and the financial estimates for the next year shall be presented.

(*3*) A copy of the statement of receipts and expenditure, the balance sheet and the financial estimates referred to in clause (4) shall be sent to every member of the Court at least seven days before the date of the annual meeting.

(*4*) Special meetings of the Court may be convened by the Executive Council or the Vice-Chancellor or if there is no Vice-Chancellor, the Pro-Vice-Chancellor or if there is no Pro-Vice-Chancellor, by the Registrar.

(*5*) Eleven members of the Court shall form a quorum for a meeting of the Court.

11. Seven members of the Executive Council shall form a quorum for a meeting of the Executive Council. The Executive Council.

12. (*1*) The Executive Council shall have the power of management and administration of the revenues and property of the University and the conduct of all administrative affairs of the University not otherwise provided for. Powers and functions of the Executive Council.

(*2*) Subject to the provisions of the Act, the Statutes and the Ordinances, the Executive Council shall, in addition to all other powers vested in it, have the following powers, namely:—

(*i*) to create teaching and other academic posts, to determine the number and emoluments of such posts and to define the duties and conditions of service of Professors, Readers, Lecturers and other academic staff;

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Provided that no action shall be taken by the Executive Council in respect of the number and qualifications of teachers and other academic staff otherwise than after consideration of the recommendations of the Academic Council;

(*ii*) to appoint such Professors, Readers, Lecturers and other academic staff, as may be necessary, and the Directors of University, Institutes and Heads of independent Centres on the recommendation of the Selection Committee constituted for the purpose and to fill up temporary vacancies therein;

(*iii*) to recognise persons as University recognised teachers in the manner prescribed by the Ordinances;

(*iv*) to create administrative, ministerial and other necessary posts (including Chairs) and to make appointments thereto in the manner prescribed by the Ordinances;

(*v*) to grant leave of absence to any salaried officer of the University other than the Vice-Chancellor, and to make necessary arrangements for the discharge of the functions of such officer during his absence;

(*vi*) to regulate and enforce discipline among employees in accordance with the Statutes and the Ordinances;

(*vii*) to manage and regulate the finances, accounts, investments, property, business and all other administrative affairs of the University and for that purpose to appoint such agents as it may think fit;

(*viii*) to fix limits on the total recurring and the total non-recurring expenditure for a year on the recommendation of the Finance Committee;

(*ix*) to invest any money belonging to the University, including any unapplied income, in such stocks, funds, share or securities, from time to time as it may think fit or in the purchase of immovable property in India, with the like powers of varying such investment from time to time;

(*x*) to transfer or accept transfers of any movable or immovable property on behalf of the University;

(*xi*) to provide buildings, premises, furniture and apparatus and other means needed for carrying on the work of the University;

(*xii*) to enter into, vary, carry out and cancel contracts on behalf of the University;

(*xiii*) to entertain, adjudicate upon, and if thought fit, to redress any grievances of the employees and students of the University who may, for any reason, feel aggrieved;

(*xiv*) to appoint examiners and moderators and, if necessary, to remove them, and to fix their fees, emoluments and travelling and other allowances, after consulting the Academic Council;

(*xv*) to select a common seal for the University and provide for the custody and use of such seal;

(*xvi*) to make such special arrangements as may be necessary for the residence of women students;

(*xvii*) to institute fellowships, scholarships, studentships, medals and prizes;

(*xviii*) to provide for the appointment of Visiting Professors, Emeritus Professors, Consultants and Scholars and determine the terms and conditions of such appointments; and

(*xix*) to exercise such other powers and perform such other duties as may be conferred or imposed on it by the Act or the Statutes.

13. Nine members of the Academic Council shall form a quorum for a meeting of the Academic Council. The Academic Council.

14. Subject to the provisions of the Act, the Statutes and the Ordinances, the Academic Council shall, in addition to all other powers vested in it, have the following powers, namely:— Powers and functions of the Academic Council.

(*a*) to exercise general supervision over the academic policies of the University and to give directions regarding methods of instruction, co-ordination of teaching among the Colleges and the Institutions, evaluation of research and improvement of academic standards;

(*b*) to bring about and promote inter-School co-ordination and to establish or appoint such committees or boards as may be deemed necessary for the purpose;

(*c*) to consider matters of general academic interest either on its own initiative, or on a reference by a School or the Executive Council, and to take appropriate action thereon; and

(*d*) to frame such regulations and rules consistent with the Statutes and the Ordinances regarding the academic functioning of the University, discipline, residence, admissions, award of fellowships and studentships, fees, concessions, corporate life and attendance.

15. (*1*) The University shall have such Schools of Studies as may be specified in the Statutes. Schools of Studies and Departments.

(*2*) Every School shall have a School Board and the members of the first School Board shall be nominated by the Executive Council for a period of three years.

(*3*) The composition, powers and functions of a School Board shall be prescribed by the Ordinances.

(*4*) The conduct of the meetings of a School Board and the quorum required for such meetings shall be prescribed by the Ordinances.

(*5*) (*a*) Every School shall consist of such Departments as may be assigned to it by the Ordinances:

Provided that the Executive Council may, on the recommendation of the Academic Council, establish Centres of Studies to which may be assigned such teachers of the University as the Executive Council may consider necessary.

(*b*) Each Department shall consist of the following members, namely:—

(*i*) Teachers of the Department;

(*ii*) Persons conducting research in the Department;

(*iii*) Dean of the School;

(*iv*) Honorary Professors, if any, attached to the Department; and

(*v*) Such other persons as may be members of the Department in accordance with the provisions of the Ordinances.

16. (*1*) Each Department shall have a Board of Studies. Boards of Studies.

(*2*) The constitution of the Board of Studies and the term of office of its members shall be prescribed by the Ordinances.

(*3*) Subject to the overall control and supervision of the Academic Council, the functions of a Board of Studies shall be to approve subjects for research for various degrees and other requirements of research degrees and to recommend to the concerned School Board in the manner prescribed by the Ordinances —

(*a*) courses of studies and appointment of examiners for courses, but excluding research degrees;

(*b*) appointment of supervisors for research; and

(*c*) measures for the improvement of the standard of teaching and research:

Provided that the above functions of a Board of Studies shall, during the period of three years immediately after the commencement of the Act, be performed by the Department.

The Finance Committee.

17. (*1*) The Finance Committee shall consist of the following members, namely:—

(*i*) the Vice-Chancellor;

(*ii*) the Pro-Vice-Chancellor;

(*iii*) one person to be nominated by the Court;

(*iv*) three persons to be nominated by the Executive Council, out of whom at least one shall be a member of the Executive Council; and

(*v*) three persons to be nominated by the Visitor.

(*2*) Five members of the Finance Committee shall form a quorum for a meeting of the Finance Committee.

(*3*) All the members of the Finance Committee, other than the *ex officio* members, shall hold office for a term of three years.

(*4*) A member of the Finance Committee shall have the right to record a minute of dissent if he does not agree with any decision of the Finance Committee.

(*5*) The Finance Committee shall meet at least thrice every year to examine the accounts and to scrutinise proposals for expenditure.

(*6*) All proposals relating to creation of posts, and those items which have not been included in the Budget, shall be examined by the Finance Committee before they are considered by the Executive Council.

(*7*) The annual accounts and the financial estimates of the University prepared by the Finance Officer shall be laid before the Finance Committee for consideration and comments and thereafter submitted to the Executive Council for approval.

(*8*) The Finance Committee shall recommend limits for the total recurring expenditure and the total non-recurring expenditure for the year, based on the income and resources of the University (which, in the case of productive works, may include the proceeds of loans).

Selection Committees.

18. (*1*) There shall be Selection Committees for making recommendations to the Executive Council for appointment to the posts of Professor, Reader, Lecturer, Registrar, Finance Officer, Librarian and Principals of Colleges and Institutions maintained by the University.

(*2*) The Selection Committee for appointment to the posts specified in Column 1 of the Table below shall consist of the Vice-Chancellor, a nominee of the Visitor and the persons specified in the corresponding entry in column 2 of the said Table:

TABLE

1	2
Professor	(*i*) The Dean of the School. (*ii*) The Head of the Department. (*iii*) Three persons not in the service of the University, nominated by the Executive Council, out of a panel of names recommended by the Academic Council

1	2
	for their special knowledge of, or interest in, the subject with which the Professor will be concerned.
Reader/Lecturer	(*i*) The Head of the Department.
	(*ii*) One Professor nominated by the Vice-Chancellor.
	(*iii*) Two persons not in the service of the University, nominated by the Executive Council, out of a panel of names recommended by the Academic Council for their special knowledge of, or interest in, the subject with which the Reader/Lecturer will be concerned.
Registrar/ Finance Officer/ Controller of Examinations	(*i*) Two members of the Executive Council nominated by it.
	(*ii*) One person not in the service of the University nominated by the Executive Council.
Librarian	(*i*) Two persons not in the service of the University who have special knowledge of the subject of the Library Science/ Library Administration nominated by the Executive Council.
	(*ii*) One person not in the service of the University nominated by the Executive Council.
Principal of College or Institution maintained by the University.	Three persons not in the service of the University of whom two shall be nominated by the Executive Council and one by the Academic Council for their special knowledge of, or interest in, a subject in which instruction is being provided by the College or Institution.

Note 1. Where the appointment is being made for an inter-disciplinary project, the head of the project shall be deemed to be the Head of the Department concerned.

Note 2. The Professor to be nominated by the Vice-Chancellor shall be a Professor concerned with the speciality for which the selection is being made and the Vice-Chancellor shall consult the Head of the Department and the Dean of School before nominating the Professor.

(*3*) The Vice-Chancellor, or in his absence the Pro-Vice-Chancellor, shall convene and preside at the meeting of the Selection Committee:

Provided that the meeting of the Selection Committee shall be fixed after prior consultation with, and subject to the convenience of Visitor's nominee and the experts nominated by the Executive Council :

Provided further that the proceedings of the Selection Committee shall not be valid unless,—

(*a*) where the number of Visitor's nominee and the persons nominated by the Executive Council is four in all, at least three of them attend the meeting; and

(*b*) where the number of Visitor's nominee and the persons nominated by the Executive Council is three in all, at least two of them attend the meeting.

(*4*) The procedure to be followed by the Selection Committee shall be laid down in the Ordinances.

(*5*) If the Executive Council is unable to accept the recommendations made by the Selection Committee, it shall record its reasons and submit the case to the Visitor for final orders.

(*6*) Appointments to temporary posts shall be made in the manner indicated below—

(*i*) If the temporary vacancy is for duration longer than one academic session, it shall be filled on the advice of the Selection Committee in accordance with the procedure indicated in the foregoing clauses:

Provided that if the Vice-Chancellor is satisfied that in the interests of work it is necessary to fill the vacancy, the appointment may be made on a purely temporary basis on the advice of a local Selection Committee referred to in sub-clause (*ii*) for a period not exceeding six months.

(*ii*) If the temporary vacancy is for a period less than a year, an appointment to such vacancy shall be made on the recommendation of a local Selection Committee consisting of the Dean of the School concerned, the Head of the Department and a nominee of the Vice-Chancellor:

Provided that if the same person holds the offices of the Dean and the Head of the Department, the Selection Committee may contain two nominees of the Vice-Chancellor:

Provided further that in the case of sudden casual vacancies of teaching posts caused by death or any other reason, the Dean may, in consultation with the Head of the Department concerned, make a temporary appointment for a month and report to the Vice-Chancellor and the Registrar about such appointment.

(*iii*) No teacher appointed temporarily shall, if he is not recommended by a regular Selection Committee for appointment under the Statutes, be continued in service on such temporary employment, unless he is subsequently selected by a local Selection Committee or a regular Selection Committee, for a temporary or permanent appointment, as the case may be.

Special mode of appointment.

19. (*1*) Notwithstanding anything contained in Statute 18, the Executive Council may invite a person of high academic distinction and professional attainments to accept a post of Professor or any other equivalent academic post in the University on such terms and conditions as it deems fit and on the person agreeing to do so appoint him to the post.

(*2*) The Executive Council may appoint a teacher or any other academic staff working in any other University or organisation for undertaking a joint project in accordance with the manner laid down in the Ordinances.

Appointment for a fixed tenure.

20. The Executive Council may appoint a person selected in accordance with the procedure laid down in Statute 18 for a fixed tenure on such terms and conditions as it deems fit.

Recognised teachers.

21. (*1*) The qualifications of recognised teachers shall be such as may be prescribed by the Ordinances.

(*2*) All applications for the recognition of teachers shall be made in such manner as may be laid down by the Ordinances.

(*3*) No teacher shall be recognized as a teacher except on the recommendation of a Selection Committee constituted for the purpose in the manner laid down in the Ordinances.

(*4*) The period of recognition of a teacher shall be determined by the Ordinances made in that behalf.

(*5*) The Academic Council may, by a special resolution passed by a majority of not less than two-thirds of the members present and voting, withdraw recognition from a teacher:

Provided that no such resolution shall be passed until notice in writing has been given to the person concerned calling upon him to show cause, within such time as may be specified in the notice, why such resolution should not be passed and until his objections, if any, and any evidence he may produce in support of them have been considered by the Academic Council.

Committees.

22. (*1*) Any authority of the University may appoint as many standing or special Committees as it may deem fit, and may appoint to such Committees persons who are not members of such authority.

(*2*) Any Committee appointed under clause (*1*) may deal with any subject delegated to it subject to subsequent confirmation by the authority appointing it.

Terms and conditions of service and code of conduct of the teachers, etc.

23. (*1*) All the teachers and other academic staff of the University shall, in the absence of any agreement to the contrary, be governed by the terms and conditions of service and code of conduct as are specified in the Statutes, the Ordinances and the Regulations.

(*2*) The emoluments of members of the academic staff shall be such as may be prescribed by the Ordinances.

(*3*) Every teacher and other member of the academic staff of the University shall be appointed on a written contract, the form of which shall be prescribed by the Ordinances.

(*4*) A copy of every contract referred to in clause (*3*) shall be deposited with the Registrar.

Terms and conditions of service and code of conduct of other employees.

24. (*1*) All the employees of the University, other than the teachers and other academic staff, shall, in the absence of any contract to the contrary, be governed by the terms and conditions of service and code of conduct as are specified in the Statutes, the Ordinances and the Regulations.

(*2*) The manner of appointment and emoluments of employees, other than the teachers and other academic staff, shall be such as may be prescribed by the Ordinances.

Seniority list.

25. (*1*) Whenever, in accordance with the Statutes, any person is to hold an office or be a member of an authority of the University by rotation according to seniority, such seniority shall be determined according to the length of continuous service of such person in his grade and in accordance with such other principles as the Executive Council may, from time to time, prescribe.

(*2*) It shall be the duty of the Registrar to prepare and maintain in respect of each class of persons to whom the provisions of these Statutes apply, a complete and up-to-date seniority list in accordance with the provisions of clause (*1*).

(*3*) If two or more persons have equal length of continuous service in a particular grade or the relative seniority of any person or persons is otherwise in doubt, the Registrar may, on his own motion and shall, at the request of any such person, submit the matter to the Executive Council whose decision thereon shall be final.

Removal of employees of the University.

26. (*1*) Where there is an allegation of misconduct against a teacher, a member of the academic staff or other employee of the University, the Vice-Chancellor, in the case of the teacher or a member of the academic staff, and the authority competent to appoint (hereinafter referred to as the appointing authority) in the case of other employee may, by order in

writing, place such teacher, member of the academic staff or other employee, as the case may be, under suspension and shall forthwith report to the Executive Council the circumstances in which the order was made:

Provided that the Executive Council may, if it is of the opinion, that the circumstances of the case do not warrant the suspension of the teacher or a member of the academic staff, revoke such order.

(*2*) Notwithstanding anything contained in the terms of the contract of appointment or of any other terms and conditions of service of the employees, the Executive Council in respect of teachers and other academic staff, and the appointing authority in respect of other employees, shall have the power to remove a teacher or a member of the academic staff or other employee, as the case may be, on grounds of misconduct.

(*3*) Save as aforesaid, the Executive Council, or as the case may be, the appointing authority, shall not be entitled to remove any teacher, member of the academic staff or other employee except for a good cause and after giving three months' notice or on payment of three months' salary in lieu thereof.

(*4*) No teacher, member of the academic staff or other employee shall be removed under clause (*2*) or clause (*3*) unless he has been given a reasonable opportunity of showing cause against the action proposed to be taken in regard to him.

(*5*) The removal of a teacher, member of the academic staff or other employee shall take effect from the date on which the order of removal is made:

Provided that where the teacher, member of the academic staff or other employee is under suspension at the time of his removal, such removal shall take effect from the date on which he was placed under suspension.

(*6*) Notwithstanding anything contained in the foregoing provisions of this Statute, a teacher, member of the academic staff or other employee may resign —

(*a*) if he is a permanent employee, only after giving three months' notice in writing to the Executive Council or the appointing authority, as the case may be, or by paying three months' salary in lieu thereof;

(*b*) if he is not a permanent employee, only after giving one month's notice in writing to the Executive Council or, as the case may be, the appointing authority or by paying one month's salary in lieu thereof:

Provided that such resignation shall take effect only on the date on which the resignation is accepted by the Executive Council or the appointing authority as the case may be.

Honorary degrees.

27. (*1*) The Executive Council may, on the recommendation of the Academic Council and by a resolution passed by a majority of not less than two-thirds of the members present and voting, make proposals to the Visitor for the conferment of honorary degrees:

Provided that in case of emergency, the Executive Council may, on its own motion, make such proposals.

(*2*) The Executive Council may, by a resolution passed by a majority of not less than two-thirds of the members present and voting, withdraw, with the previous sanction of the Visitor, any honorary degree conferred by the University.

Withdrawal of degrees, etc.

28. The Executive Council may, by a special resolution passed by a majority of not less than two-thirds of the members present and voting, withdraw a degree or academic distinction conferred on, or any certificate or diploma granted to, any person by the University for good and sufficient cause:

Provided that no such resolution shall be passed until a notice in writing has been given to that person calling upon him to show cause within such time as may be specified

in the notice why such a resolution should not be passed and until his objections, if any, and any evidence he may produce in support of them, have been considered by the Executive Council.

29. (*1*) All powers relating to the maintenance of discipline and disciplinary action in relation to the students of the University shall vest in the Vice-Chancellor. Maintenance of discipline amongst students of the University.

(*2*) There shall be a Proctor of the University to assist the Vice-Chancellor in the exercise of the powers referred to in clause (*1*), who shall be appointed by the Executive Council from amongst the Professors and Readers in the manner prescribed by the Ordinances.

(*3*) The Vice-Chancellor may delegate all or any of the powers referred to in clause (*1*), as he deems proper, to the Proctor and to such other officers as he may specify in this behalf.

(*4*) Without prejudice to the generality of his powers relating to the maintenance of discipline and taking such action, as may seem to him appropriate for the maintenance of discipline, the Vice-Chancellor may, in exercise of such powers, by order, direct that any student or students be expelled or rusticated, for a specified period, or be not admitted to a course or courses of study in a College, Institution or Department or a School of the University for a stated period, or be punished with fine for an amount to be specified in the order, or be debarred from taking an examination or examinations conducted by the University, College, Institution or Department or a School for one or more years, or that the results of the student or students concerned in the examination or examinations in which he or they have appeared be cancelled.

(*5*) The Principals of College, Institutions, Deans of Schools of Studies and Heads of teaching Departments in the University shall have the authority to exercise all such disciplinary powers over the students in their respective Colleges, Institutions, Schools and teaching Departments in the University, as may be necessary for the proper conduct of such Colleges, Institutions, Schools and teaching Departments.

(*6*) Without prejudice to the powers of the Vice-Chancellor and the Principal and other persons specified in clause (*5*), detailed rules of discipline and proper conduct shall be made by the University.

(*7*) The Principals of College, Institutions, Deans of Schools of Studies and Heads of teaching Departments in the University may also make such supplementary rules as they deem necessary for the purposes stated therein.

(*8*) At the time of admission, every student shall be required to sign a declaration to the effect that he submits himself to the disciplinary jurisdiction of the Vice-Chancellor and other authorities of the University.

30. Convocations of the University for the conferring of degrees or for other purposes shall be held in such manner as may be prescribed by the Ordinances. Convocations.

31. Where no provision is made for a President or Chairman to preside over a meeting of any authority of the University or any Committee of such authority or when the President or Chairman so provided for is absent, the members present shall elect one from among themselves to preside at such meeting. Acting Chairman of meetings.

32. Any member, other than an *ex officio* member, of the Court, the Executive Council, the Academic Council or any other authority of the University or any Committee of such authority may resign by letter addressed to the Registrar and the resignation shall take effect as soon as such letter is received by the Registrar. Resignation.

33. (*1*) A person shall be disqualified for being chosen as, and for being, a member of any of the authorities of the University— Disqualification.

(*i*) if he is of unsound mind;

(*ii*) if he is an undischarged insolvent;

(*iii*) if he has been convicted by a court of law of an offence involving moral turpitude and sentenced in respect thereof to imprisonment for not less than six months.

(*2*) If any question arises as to whether a person is or had been subjected to any of the disqualifications mentioned in clause (*1*), the question shall be referred to the Visitor and his decision shall be final and no suit or other proceeding shall lie in any civil court against such decision.

Residence condition for membership and office.

34. Notwithstanding anything contained in the Statutes, a person who is not ordinarily resident in India shall not be eligible to be an officer of the University or a member of any authority of the University.

Membership of authorities by virtue of membership of other bodies.

35. Notwithstanding anything contained in the Statutes, a person who holds any post in the University or is a member of any authority or body of the University in his capacity as a member of a particular authority or body or as the holder of a particular appointment shall hold such office or membership only for so long as he continues to be a member of that particular authority or body or the holder of that particular appointment, as the case may be.

Alumni Association.

36. (*1*) There shall be an Alumni Association for the University.

(*2*) The subscription for membership of the Alumni Association shall be prescribed by the Ordinances.

(*3*) No member of the Alumni Association shall be entitled to vote or stand for election unless he has been a member of the Association for at least one year prior to the date of election and is a degree holder of the University of at least five years standing:

Provided that the condition relating to the completion of one year's membership shall not apply in the case of the first election.

Students Council.

37. (*1*) There shall be constituted in the University, a Students' Council for every academic year, consisting of –

(*i*) the Dean of Students' Welfare who shall be the Chairman of the Students' Council;

(*ii*) twenty students to be nominated by the Academic Council on the basis of merit in studies, sports and extra curricular activities; and

(*iii*) such number of elected representatives of students as may be prescribed by the Academic Council:

Provided that any student of the University shall have the right to bring up any matter concerning the University before the Students' Council if so permitted by the Chairman, and he shall have the right to participate in the discussions at any meeting when the matter is taken up for consideration.

(*2*) The functions of the Students' Council shall be to make suggestions to the appropriate authorities of the University in regard to the programmes of studies, students' welfare and other matters of importance, in regard to the working of the University in general and such suggestions shall be made on the basis of consensus of opinion.

(*3*) The Students' Council shall meet at least once in an academic year preferably in the beginning of that year.

38. (*1*) The first Ordinances made under sub-section (*2*) of section 30 may be amended, repealed or added to at any time by the Executive Council in the manner specified in the following sub-sections. Ordinances how made.

(*2*) No Ordinance in respect of the matters enumerated in sub-section (*1*) of section 30 shall be made by the Executive Council unless a draft of such Ordinance has been proposed by the Academic Council.

(*3*) The Executive Council shall not have power to amend any draft of any Ordinance proposed by the Academic Council under clause (*2*), but may reject the proposal or return the draft to the Academic Council for re-consideration, either in whole or in part, together with any amendment which the Executive Council may suggest.

(*4*) Where the Executive Council has rejected or returned the draft of an Ordinance proposed by the Academic Council, the Academic Council may consider the question afresh and in case the original draft is reaffirmed by a majority of not less than two-thirds of the members present and voting and more than half the total number of members of the Academic Council, the draft may be sent back to the Executive Council which shall either adopt it or refer it to the Visitor whose decision shall be final.

(*5*) Every Ordinance made by the Executive Council shall come into effect immediately.

(*6*) Every Ordinance made by the Executive Council shall be submitted to the Visitor within two weeks from the date of its adoption.

(*7*) The Visitor shall have the power to direct the University to suspend the operation of any Ordinance.

(*8*) The Visitor shall inform the Executive Council about his suspending the Ordinance referred to in clause (*7*) and may, after receiving the comments of the University, either withdraw the order suspending the Ordinance or disallow the Ordinance, and his decision shall be final.

39. (*1*) The authorities of the University may make Regulations consistent with the Act, the Statutes and the Ordinances for the following matters, namely:— Regulations.

(*i*) laying down the procedure to be observed at their meetings and the number of members required to form a quorum;

(*ii*) providing for all matters which are required by the Act, the Statutes or the Ordinance to be prescribed by Regulations;

(*iii*) providing for all other matters solely concerning such authorities or committees appointed by them and not provided for by the Act, the Statutes or the Ordinances.

(*2*) Every authority of the University shall make Regulations providing for the giving of notice to the members of such authority of the dates of meeting and of the business to be considered at meetings and for the keeping of a record of the proceedings of meetings.

(*3*) The Executive Council may direct the amendment in such manner as it may specify of any Regulation made under the Statutes or the annulment of any such Regulation.

Delegation of powers.

40. Subject to the provisions of the Act and the Statutes, any officer or authority of the University may delegate his or its powers to any other officer or authority or person under his or its respective control and subject to the condition that overall responsibility for the exercise of the powers so delegated shall continue to vest in the officer or authority delegating such powers.

Sd/-

Dr. K. N. CHATURVEDI,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

H. D. VYAS,
Secretary to Government.

Government Central Press, Gandhinagar.

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Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART - VI

Acts of Parliament and Ordinances promulgated by the President.

Legislative & Parliamentary Affairs Department

Sachivalaya, Gandhinagar, 6th August, 2007

No. RPB-35-2007/Act-8-07/E :- The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

(LEGISLATIVE DEPARTMENT)

New Delhi, the 11th January, 2007. Pausa 21, 1928 (Saka)

The following Act of Parliament has received the assent of the President on the 10th January, 2007, is hereby published for general information :-

THE RAJIV GANDHI UNIVERSITY ACT, 2006

An Act

(Act No. 8 of 2007) (10th January, 2007)

to establish and incorporate a teaching and affiliating University in the State of Arunachal Pradesh and to provide for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

1. (*1*) This Act may be called the Rajiv Gandhi University Act, 2006. Short title and commencement.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, and in all Statutes made hereunder, unless the context otherwise requires,— Definitions.

(*a*) "Academic Council" means the Academic Council of the University;

(*b*) "academic staff" means such categories of staff as are designated as academic staff by the Ordinances;

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(*c*) "Affiliated College" means a college admitted to the privileges of the University;

(*d*) "Approved Institution" means an Institution approved by the University for offering programmes of study leading to a certificate or diploma or both, not being an institution imparting programmes of study leading to a degree;

(*e*) "Approved Teachers" means such persons as may be approved by the University for the purpose of imparting instruction in an Approved Institution;

(*f*) "Board of Studies" means the Board of Studies of the University;

(*g*) "Chancellor", "Vice-Chancellor" and "Pro-Vice-Chancellor" mean, respectively, the Chancellor, Vice-Chancellor and Pro-Vice-Chancellor of the University;

(*h*) "College Development Council" means the College Development Council of the University;

(*i*) "Constituent College" means a college maintained by the University;

(*j*) "Court" means the Court of the University;

(*k*) "Department" means a Department of Studies and includes a Centre of Studies;

(*l*) "Distance Education System" means the system of imparting education through any means of communication, such as broadcasting, telecasting, correspondence courses, seminars, contact programmes or the combination of any two or more such means;

(*m*) "Employee" means any person appointed by the University and includes teachers and other staff of the University;

(*n*) "Executive Council" means the Executive Council of the University;

(*o*) "Faculty" means a Faculty of the University;

(*p*) "Hall" means a unit of residence or of corporate life for the students of the University, or of a College or an Institution, maintained by the University;

(*q*) "Institution" means an academic institution, not being a College, maintained by, or admitted to the privileges of, the University;

(*r*) "Principal" means the Head of a College or an Institution maintained by the University and includes, where there is no Principal, the person for the time being duly appointed to act as Principal, and in the absence of the Principal, or the acting Principal, a Vice-Principal duly appointed as such;

(*s*) "Recognised Teachers" means such persons as may be recognised by the University for the purpose of imparting instructions in a College or an Institution admitted to the privileges of the University;

(*t*) "Regulations" means the Regulations made by any authority of the University under this Act for the time being in force;

(*u*) "Statutes" and "Ordinances" mean, respectively, the Statutes and the Ordinances of the University for the time being in force;

(*v*) "Teachers of the University" means Professors, Readers, Lecturers and such other persons as may be appointed for imparting instruction or conducting research in the University or in any College or Institution maintained by the University and are designated as teachers by the Ordinances;

(*w*) "University" means the Rajiv Gandhi University established and incorporated as a University under this Act.

Establishment of the University.

3. (*1*) The Rajiv Gandhi University in the State of Arunachal Pradesh, established under the Rajiv Gandhi University Act, 1984, shall be established as a body corporate under this Act by the same name of "Rajiv Gandhi University". Arunachal Pradesh Act 1 of 1984.

(*2*) The first Chancellor, the first Vice-Chancellor and the first members of the Court, the Executive Council and the Academic Council, and all persons who may hereafter become such officers or members, so long as they continue to hold such office or membership, shall constitute the University.

(*3*) The University shall have perpetual succession and a common seal and shall sue and be sued by the said name.

(*4*) The headquarters of the University shall be at Itanagar.

4. On and from the date of commencement of this Act, — Effect of establishment of the University.

(*a*) any reference to the Rajiv Gandhi University in any contract or other instrument shall be deemed as a reference to the University;

(*b*) all property, movable and immovable, of or belonging to the Rajiv Gandhi University shall vest in the University;

(*c*) all rights and liabilities of the Rajiv Gandhi University shall be transferred to, and be the rights and liabilities of, the University;

(*d*) every person employed by the Rajiv Gandhi University immediately before the commencement of this Act shall hold his office or service in the University by the same tenure, at the same remuneration and upon the same terms and conditions and with the same rights and privileges as to pension, leave, gratuity, provident fund and other matters as he would have held the same if this Act had not been enacted; and shall continue to do so unless and until his employment is terminated or until such tenure, remuneration and terms and conditions are duly altered by the Statutes:

Provided that if the alteration so made is not acceptable to such employee, his employment may be terminated by the University in accordance with the term of the contract with the employee or, if no provision is made therein in this behalf, on payment to him by the University of compensation equivalent to three months' remuneration in case of permanent employees and one month's remuneration in the case of other employees:

Provided further that every person employed before the commencement of this Act, pending the execution of a contract under section 36, shall be deemed to have been appointed in accordance with the provisions of a contract consistent with the provisions of this Act and the Statutes:

Provided also that any reference, by whatever form of words, to the Vice-Chancellor and Pro-Vice-Chancellor of the Rajiv Gandhi University in any law for the time being in force, or in any instrument or other document, shall be construed as a reference respectively to the Vice-Chancellor and the Pro-Vice-Chancellor of the University;

Arunachal Pradesh Act 1 of 1984.

(*e*) the Vice-Chancellor of the Rajiv Gandhi University, appointed under the provisions of the Rajiv Gandhi University Act, 1984, shall be deemed to have been appointed as the Vice-Chancellor under this Act, and shall hold office for a period of three months or till such time the first Vice-Chancellor is appointed under section 47 of the Act, whichever is earlier; and

(*f*) all Colleges, Institutions, Faculties and Departments affiliated to, or admitted to the privileges of, or maintained by, the Rajiv Gandhi University shall stand affiliated to, or admitted to the privilege of, or maintained by, the University.

5. The objects of the University shall be to disseminate and advance knowledge by providing instructional and research facilities in such branches of learning as it may deem fit; to make provisions for integrated courses in humanities, natural and physical sciences, social sciences, forestry and other allied disciplines in the educational programmes of the University; to take appropriate measures for promoting innovations in teaching-learning Objects of the University.

process, inter-disciplinary studies and research; to educate and train manpower for the development of the State of Arunachal Pradesh; and to pay special attention to the improvement of the social and economic conditions and welfare of the people of that State, their intellectual, academic and cultural development.

Powers of the University.

6. The University shall have the following powers, namely: —

(*i*) to provide for instructions in such branches of learning as the University may, from time to time, determine and to make provisions for research and for the advancement and dissemination of knowledge;

(*ii*) to grant, subject to such conditions as the University may determine, diplomas or certificates to, and confer degrees or other academic distinctions on the basis of examinations, evaluation or any other method of testing, on persons, and to withdraw any such diplomas, certificates, degrees or other academic distinctions for good and sufficient cause;

(*iii*) to organise and to undertake extramural studies, training and extension services;

(*iv*) to confer honorary degrees or other distinctions in the manner prescribed by the Statutes;

(*v*) to provide facilities through the distance education system to such persons as it may determine;

(*vi*) to institute Principalships, Professorships, Readerships, Lecturerships and other teaching or academic positions, required by the University and to appoint persons to such Principalships, Professorships, Readerships, Lecturerships or other teaching or academic positions;

(*vii*) to recognise an Institution of higher learning for such purposes as the University may determine and to withdraw such recognition;

(*viii*) to recognise persons for imparting instructions in any College or Institution admitted to the privileges of the University;

(*ix*) to appoint persons working in any other University or educational institution as teachers of the University for a specified period;

(*x*) to create administrative, ministerial and other posts and to make appointments thereto;

(*xi*) to co-operate or collaborate or associate with any other University or authority or Institution of higher learning in such manner and for such purposes as the University may determine;

(*xii*) to establish, with the prior approval of the Central Government, such Centres and specialised laboratories or other units for research and instruction as are, in the opinion of the University, necessary for the furtherance of its objects;

(*xiii*) to institute and award fellowships, scholarships, studentships, medals and prizes;

(*xiv*) to establish and maintain Colleges, Institutions and Halls;

(*xv*) to make provision for research and advisory services and for that purpose to enter into such arrangements with other institutions, industrial or other organisations, as the University may deem necessary;

(*xvi*) to organise and conduct refresher courses, workshops, seminars and other programmes for teachers, evaluators and other academic staff;

(*xvii*) to admit to its privileges Colleges and Institutions within the State of Arunachal Pradesh not maintained by the University; to withdraw all or any of those privileges in accordance with such conditions as may be prescribed by the Statutes; to

recognise, guide, supervise, and control Halls not maintained by the University and other accommodation for students, and to withdraw any such recognition;

(*xviii*) to appoint on contract or otherwise visiting Professors, Emeritus Professors, Consultants, Scholars and such other persons who may contribute to the advancement of the objects of the University;

(*xix*) to confer autonomous status on a College or an Institution or a Department, as the case may be, in accordance with the Statutes;

(*xx*) to determine standards of admission to the University, which may include examination, evaluation or any other method of testing;

(*xxi*) to demand and receive payment of fees and other charges;

(*xxii*) to supervise the residences of the students of the University and to make arrangements for promoting their health and general welfare;

(*xxiii*) to lay down conditions of service of all categories of employees, including their code of conduct;

(*xxiv*) to regulate and enforce discipline among the students and the employees, and to take such disciplinary measures in this regard as may be deemed by the University to be necessary;

(*xxv*) to make arrangements for promoting the health and general welfare of the employees;

(*xxvi*) to receive benefactions, donations and gifts and to acquire, hold and manage, and to dispose of, with the previous approval of the Central Government, any property, movable or immovable, including trust and endowment properties for the purposes of the University;

(*xxvii*) to borrow, with the approval of the Central Government, on the security of the property of the University, money for the purposes of the University;

(*xxviii*) to do all such other acts and things as may be necessary, incidental or conducive to the attainment of all or any of its objects.

7. (*1*) The jurisdiction of the University shall extend to the whole of the State of Arunachal Pradesh. Jurisdiction.

(*2*) Notwithstanding anything in any other law for the time being in force, no educational institution within the State of Arunachal Pradesh shall be associated in any way with or be admitted to any privileges of any other University incorporated by law in India, and any such privileges granted by any such other University to an educational institution within the State of Arunachal Pradesh prior to the commencement of this Act shall be deemed to be withdrawn on the commencement of this Act:

Provided that the Central Government may, by order in writing, direct that the provisions of this sub-section shall not apply in case of any educational institution specified in the order.

8. The University shall be open to persons of either sex and of whatever caste, creed, race or class, and it shall not be lawful for the University to adopt or impose on any person, any test whatsoever of religious belief or profession in order to entitle him to be appointed as a teacher of the University or to hold any other office therein or be admitted as a student in the University or to graduate thereat or to enjoy or exercise any privilege thereof: University open to all classes, castes and creed.

Provided that nothing in this section shall be deemed to prevent the University from making special provisions for the employment or admission of women, persons with disabilities or of persons belonging to the weaker sections of the society and, in particular, of the Scheduled Castes and the Scheduled Tribes.

The Visitor.

9. (*1*) The President of India shall be the Visitor of the University.

(*2*) The Visitor may, from time to time, appoint one or more persons to review the work and progress of the University, including Colleges and Institutions maintained by it, and to submit a report thereon; and upon receipt of that report, the Visitor may, after obtaining the views of the Executive Council thereon through the Vice-Chancellor, take such action and issue such directions as he considers necessary in respect of any of the matters dealt with in the report and the University shall be bound to comply with such directions.

(*3*) The Visitor shall have the right to cause an inspection to be made by such person or persons as he may direct, of the University, its buildings, libraries, laboratories and equipment, and of any College or Institution maintained by the University or admitted to its privileges; and also of the examinations, teaching and other work conducted or done by the University and to cause an inquiry to be made in like manner in respect of any matter connected with the administration or finances of the University, Colleges or Institutions.

(*4*) The Visitor shall, in every matter referred to in sub-section (*3*), give notice of his intention to cause an inspection or inquiry to be made, —

(*a*) to the University, if such inspection or inquiry is to be made in respect of the University or any College or Institution maintained by it, or

(*b*) to the management of the College or Institution, if the inspection or inquiry is to be made in respect of College or Institution admitted to the privileges of the University,

and the University or the management, as the case may be, shall have the right to make such representations to the Visitor, as it may consider necessary.

(*5*) After considering the representations, if any, made by the University or the management, as the case may be, the Visitor may cause to be made such inspection or inquiry as is referred to in sub-section (*3*).

(*6*) Where any inspection or inquiry has been caused to be made by the Visitor, the University or the management shall be entitled to appoint a representative, who shall have the right to be present and be heard at such inspection or inquiry.

(*7*) The Visitor may, if the inspection or inquiry is made in respect of the University or any College or Institution maintained by it, address the Vice-Chancellor with reference to the result of such inspection or inquiry together with such views and advice with regard to the action to be taken thereon, as the Visitor may be pleased to offer, and on receipt of address made by the Visitor, the Vice-Chancellor shall communicate, to the Executive Council, the views of the Visitor with such advice as the Visitor may offer upon the action to be taken thereon.

(*8*) The Visitor may, if the inspection or inquiry is made in respect of any College or Institution admitted to the privileges of the University, address the management concerned through the Vice-Chancellor with reference to the result of such inspection or inquiry, his views thereon and such advice as he may be pleased to offer upon the action to be taken thereon.

(*9*) The Executive Council or the management, as the case may be, shall communicate, through the Vice-Chancellor to the Visitor such action, if any, as it proposes to take or has been taken upon the result of such inspection or inquiry.

(*10*) Where, the Executive Council or the management, does not, within a reasonable time, take action to the satisfaction of the Visitor, the Visitor may, after considering any explanation furnished or representation made by the Executive Council or the management, issue such directions as he may think fit and the Executive Council or the management, as the case may be, shall comply with such directions.

(*11*) Without prejudice to the foregoing provisions of this section, the Visitor may, by order in writing, annul any proceeding of the University which is not in conformity with the Act, the Statutes or the Ordinances:

Provided that before making any such order, he shall call upon the Registrar to show cause why such an order should not be made, and, if any cause is shown within a reasonable time, he shall consider the same.

(*12*) The Visitor shall have such other powers as may be prescribed by the Statutes.

10. The Governor of the State of Arunachal Pradesh shall be the Chief Rector of the University. The Chief Rector.

11. The following shall be the officers of the University:— Officers of the University.

(*1*) the Chancellor;

(*2*) the Vice-Chancellor;

(*3*) the Pro-Vice-Chancellor;

(*4*) the Deans of Faculties;

(*5*) the Registrar;

(*6*) the Finance Officer;

(*7*) the Controller of Examinations;

(*8*) the Librarian; and

(*9*) such other officers as may be declared by the Statutes to be officers of the University.

12. (*1*) The Chancellor shall be appointed by the Visitor in such manner as may be prescribed by the Statutes. The Chancellor.

(*2*) The Chancellor shall, by virtue of his office, be the head of the University and shall, if present, preside at the Convocations of the University held for conferring degrees and meetings of the Court.

13. (*1*) The Vice-Chancellor shall be appointed by the Visitor in such manner as may be prescribed by the Statutes. The Vice-Chancellor.

(*2*) The Vice-Chancellor shall be the principal executive and academic officer of the University and shall exercise general supervision and control over the affairs of the University and give effect to the decisions of all the authorities of the University.

(*3*) The Vice-Chancellor may, if he is of the opinion that immediate action is necessary on any matter, exercise any power conferred on any authority of the University by or under this Act and shall report to such authority at its next meeting the action taken by him on such matter:

Provided that if the authority concerned is of the opinion that such action ought not to have been taken, it may refer the matter to the Visitor whose decision thereon shall be final:

Provided further that any person in the service of the University who is aggrieved by the action taken by the Vice-Chancellor under this sub-section shall have the right to represent against such action to the Executive Council within three months from the date on which decision on such action is communicated to him and thereupon the Executive Council may confirm, modify or reverse the action taken by the Vice-Chancellor.

(*4*) The Vice-Chancellor, if he is of the opinion that any decision of any authority of the University is beyond the powers of the authority conferred by the provisions of this Act, the Statutes or the Ordinances or that any decision taken is not in the interest of the University, may ask the authority concerned to review its decision within sixty days of such decision and if the authority refuses to review the decision either in whole or in part or no decision is taken by it within the said period of sixty days, the matter shall be referred to the Visitor whose decision thereon shall be final.

(5) The Vice-Chancellor shall exercise such other powers and perform such other duties as may be prescribed by the Statutes or the Ordinances.

The Pro-Vice-Chancellor.

14. The Pro-Vice-Chancellor shall be appointed in such manner and on such terms and conditions of service, and shall exercise such powers and perform such duties, as may be prescribed by the Statutes.

The Deans of Faculties.

15. Every Dean of Faculty shall be appointed in such manner and shall exercise such powers and perform such duties as may be prescribed by the Statutes.

The Registrar.

16. (1) The Registrar shall be appointed in such manner and on such terms and conditions of service as may be prescribed by the Statutes.

(2) The Registrar shall have the power to enter into agreements, sign documents and authenticate records on behalf of the University and shall exercise such powers and perform such duties as may be prescribed by the Statutes.

The Finance Officer.

17. The Finance Officer shall be appointed in such manner and shall exercise such powers and perform such duties, as may be prescribed by the Statutes.

The Controller of Examinations.

18. The Controller of Examinations shall be appointed in such manner and shall exercise such powers and perform such duties, as may be prescribed by the Statutes.

The Librarian.

19. The Librarian shall be appointed in such manner and on such terms and conditions of service, and shall exercise such powers and perform such duties, as may be prescribed by the Statutes.

Other officers.

20. The manner of appointment and powers and duties of other officers of the University shall be prescribed by the Statutes.

Authorities of the University.

21. The following shall be the authorities of the University:—

(1) the Court;

(2) the Executive Council;

(3) the Academic Council;

(4) the College Development Council;

(5) the Board of Studies;

(6) the Finance Committee; and

(7) such other authorities as may be declared by the Statutes to be the authorities of the University.

The Court.

22. (1) The constitution of the Court and the term of office of its members shall be prescribed by the Statutes:

Provided that such number of members as may be prescribed by the Statutes shall be elected from among the teachers, employees and students of the University.

(2) Subject to the provisions of this Act, the Court shall have the following powers and functions, namely:—

(a) to review, from time to time, the broad policies and programmes of the University and to suggest measures for the improvement and development of the University;

(b) to consider and pass resolutions on the annual report and the annual accounts of the University and the audit report on such accounts;

(c) to advise the Visitor in respect of any matter which may be referred to it for advice; and

(d) to perform such other functions as may be prescribed by the Statutes.

The Executive Council.

23. (1) The Executive Council shall be the principal executive body of the University.

(2) The constitution of the Executive Council, the term of office of its members and its powers and functions shall be prescribed by the Statutes:

Provided that such number of members as may be prescribed by the Statutes shall be from among the elected members of the Court.

24. (*1*) The Academic Council shall be the principal academic body of the University and shall, subject to the provisions of this Act, the Statutes and the Ordinances, co-ordinate and exercise general supervision over the academic policies of the University. The Academic Council.

(*2*) The constitution of the Academic Council, the term of office of its members and its powers and functions shall be prescribed by the Statutes:

Provided that such number of members as may be prescribed by the Statutes shall be from among the elected members of the Court who are teachers of the University.

25. (*1*) The College Development Council shall be responsible for admitting Colleges to the privileges of the University. The College Development Council.

(*2*) The constitution of the College Development Council, the term of office of its members and its powers and functions shall be prescribed by the Statutes.

26. The constitution, powers and functions of the Board of Studies shall be prescribed by the Statutes. The Board of Studies.

27. The constitution, powers and functions of the Finance Committee shall be prescribed by the Statutes. The Finance Committee.

28. The constitution, powers and functions of other authorities, as may be declared by the Statutes to be the authorities of the University, shall be prescribed by the Statutes. Other authorities of the University.

29. Subject to the provisions of this Act, the Statutes may provide for all or any of the following matters, namely:— Power to make Statutes.

(*a*) the constitution, powers and functions of authorities and other bodies of the University, as may be constituted from time to time;

(*b*) the appointment and continuance in office of the members of the said authorities and bodies, the filling up of vacancies of members, and all other matters relating to those authorities and other bodies for which it may be necessary or desirable to provide;

(*c*) the appointment, powers and duties of the officers of the University and their emoluments;

(*d*) the appointment of teachers, academic staff and other employees of the University, their emoluments and conditions of service;

(*e*) the recognition and approval of persons as recognised teachers and approved teachers;

(*f*) the appointment of teachers, academic staff working in any other University or organisation for a specific period for undertaking a joint project;

(*g*) the conditions of service of employees including provisions for pension, insurance, provident fund, the manner of termination of service and disciplinary action;

(*h*) the principles governing the seniority of service of the employees of the University;

(*i*) the procedure for arbitration in cases of dispute between employees or students and the University;

(*j*) the procedure for appeal to the Executive Council by any employee or student against the action of any officer or authority of the University;

(*k*) the conferment of autonomous status on a College or an Institution or a Department;

(*l*) the establishment and abolition of Faculties, Departments, Centres, Halls, Colleges and Institutions;

(*m*) the conferment of honorary degrees;

(*n*) the withdrawal of degrees, diplomas, certificates and other academic distinctions;

(*o*) the conditions under which Colleges and Institutions may be admitted to the privileges of the University and the withdrawal of such privileges;

(*p*) the management of Colleges and Institutions established by the University;

(*q*) the delegation of powers vested in the authorities or officers of the University;

(*r*) the maintenance of discipline among the employees and students; and

(*s*) all other matters which by this Act are to be or may be provided for by the Statutes.

Statutes how to be made.

30. (*1*) The first Statutes are those set out in the Schedule.

(*2*) The Executive Council may, from time to time, make new or additional Statutes or may amend or repeal the Statutes referred to in sub-section (*1*):

Provided that the Executive Council shall not make, amend or repeal any Statutes affecting the status, powers or constitution of any authority of the University until such authority has been given an opportunity of expressing an opinion in writing on the proposed changes, and any opinion so expressed shall be considered by the Executive Council.

(*3*) Every new Statute or addition to the Statutes or any amendment or repeal of a Statute shall require the assent of the Visitor who may assent thereto or withhold assent or remit to the Executive Council for re-consideration.

(*4*) A new Statute or a Statute amending or repealing an existing Statute shall have no validity unless it has been assented to by the Visitor.

(*5*) Notwithstanding anything contained in the foregoing sub-sections, the Visitor may make new or additional Statutes or amend or repeal the Statutes referred to in sub-section (*1*), during the period of three years immediately after the commencement of this Act:

Provided that the Visitor may, on the expiry of the said period of three years, make, within one year from the date of such expiry, such detailed Statutes as he may consider necessary and such detailed Statutes shall be laid before both Houses of Parliament.

(*6*) Notwithstanding anything contained in the foregoing sub-sections, the Visitor may direct the University to make provisions in the Statutes in respect of any matter specified by him and if the Executive Council is unable to implement such direction within sixty days of its receipt, the Visitor may, after considering the reasons, if any, communicated by the Executive Council for its inability to comply with such direction, make or amend the Statutes suitably.

Power to make Ordinances.

31. (*1*) Subject to the provisions of this Act and the Statutes, the Ordinances may provide for all or any of the following matters, namely: —

(*a*) the admission of students to the University and their enrolment as such;

(*b*) the courses of study to be laid down for all degrees, diplomas and certificates of the University;

(*c*) the medium of instruction and examination;

(*d*) the award of degrees, diplomas, certificates and other academic distinctions, the qualifications for the same and the means to be taken relating to the granting and obtaining of the same;

(*e*) the fees to be charged for courses of study in the University and for admission to the examinations, degrees and diplomas of the University;

(*f*) the conditions for award of fellowships, scholarships, studentships, medals and prizes;

(*g*) the conduct of examinations, including the term of office and manner of appointment and the duties of examining bodies, examiners and moderators;

(*h*) the conditions of residence of the students of the University;

(*i*) the special arrangements, if any, which may be made for the residence, and teaching of women students and the prescribing of special courses of studies for them;

(*j*) the establishment of Centres of Studies, Boards of Studies, Specialised Laboratories and other Committees;

(*k*) the manner of co-operation and collaboration with other Universities, Institutions and other agencies not involving the carrying on of any activity for profit including learned bodies or associations;

(*l*) the creation, composition and functions of any other body which is considered necessary for improving the academic life of the University;

(*m*) the institution of fellowships, scholarships, studentships, medals and prizes;

(*n*) the supervision of management of Colleges and Institutions admitted to the privileges of the University;

(*o*) the setting up of a machinery for redressal of grievances of employees; and

(*p*) all other matters which by this Act or the Statutes, are to be or may be, provided for by the Ordinances.

(*2*) The first Ordinances shall be made by the Vice-Chancellor with the previous approval of the Central Government and the Ordinances so made may be amended, repealed or added to at any time by the Executive Council in the manner prescribed by the Statutes:

Provided that till such time as the first Ordinances are not so made by the Vice-Chancellor, in respect of the matters that are to be provided for by the Ordinances under this Act and the Statutes, the relevant provisions of the Statutes and the Ordinances of the Rajiv Gandhi University in force immediately before the commencement of this Act shall be applicable insofar as they are not inconsistent with the provisions of this Act and the Statutes.

Regulations.

32. The authorities of the University may make Regulations, consistent with this Act, the Statutes and the Ordinances for the conduct of their own business and that of the Committees, if any, appointed by them and not provided for by this Act, the Statutes or the Ordinances, in the manner prescribed by the Statutes.

Annual report.

33. (*1*) The annual report of the University shall be prepared under the direction of the Executive Council, which shall include, among other matters, the steps taken by the University towards the fulfilment of its objects and shall be submitted to the Court on or after such date as may be prescribed by the Statutes and the Court shall consider the report in its annual meeting.

(*2*) The Court shall submit the annual report to the Visitor along with its comments, if any.

(*3*) A copy of the annual report, as prepared under sub-section (*1*), shall also be submitted to the Central Government, which shall, as soon as may be, cause the same to be laid before both Houses of Parliament.

Annual accounts.

34. (*1*) The annual accounts and balance-sheet of the University shall be prepared under the directions of the Executive Council and shall, once at least every year and at intervals of not more than fifteen months, be audited by the Comptroller and Auditor-General of India or by such persons as he may authorise in this behalf.

(*2*) A copy of the annual accounts together with the audit report thereon shall be submitted to the Court and the Visitor along with the observations of the Executive Council.

(*3*) Any observations made by the Visitor on the annual accounts shall be brought to the notice of the Court and the observations of the Court, if any, shall, after being considered by the Executive Council, be submitted to the Visitor.

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(*4*) A copy of the annual accounts together with the audit report as submitted to the Visitor, shall also be submitted to the Central Government, which shall, as soon as may be, cause the same to be laid before both Houses of Parliament.

(*5*) The audited annual accounts after having been laid before both Houses of Parliament shall be published in the Official Gazette.

Returns and information.

35. The University shall furnish to the Central Government such returns or other information with respect to its property or activities as the Central Government may, from time to time, require.

Conditions of service of employees.

36. (*1*) Every employee of the University shall be appointed under a written contract, which shall be lodged with the University and a copy of which shall be furnished to the employee concerned.

(*2*) Any dispute arising out of the contract between the University and any employee shall, at the request of the employee, be referred to a Tribunal of Arbitration consisting of one member appointed by the Executive Council, one member nominated by the employee concerned and an umpire appointed by the Visitor.

(*3*) The decision of the Tribunal shall be final, and no suit shall lie in any civil court in respect of the matters decided by the Tribunal:

Provided that nothing in this sub-section shall preclude the employee from availing of the judicial remedies available under articles 32 and 226 of the Constitution.

(*4*) Every request made by the employee under sub-section (*2*), shall be deemed to be a submission to arbitration upon the terms of this section within the meaning of the Arbitration and Conciliation Act, 1996. 26 of 1996.

(*5*) The procedure for regulating the work of the Tribunal shall be prescribed by the Statutes.

Procedure of appeal and arbitration in disciplinary cases against students.

37. (*1*) Any student or candidate for an examination whose name has been removed from the rolls of the University by the orders or resolution of the Vice-Chancellor, Discipline Committee or Examination Committee, as the case may be, and who has been debarred from appearing at the examinations of the University for more than one year, may, within ten days of the date of receipt of such orders or copy of such resolution by him, appeal to the Executive Council and the Executive Council may confirm, modify or reverse the decision of the Vice-Chancellor or the Committee, as the case may be.

(*2*) Any dispute arising out of any disciplinary action taken by the University against a student shall, at the request of such student, be referred to a Tribunal of Arbitration and the provisions of sub-sections (*2*), (*3*), (*4*) and (*5*) of section 36 shall, as far as may be, apply to a reference made under this sub-section.

Right to appeal.

38. Every employee or student of the University or of a College or Institution maintained by the University or admitted to its privileges shall, notwithstanding anything contained in this Act, have a right to appeal within such time as may be prescribed by the Statutes, to the Executive Council against the decision of any officer or authority of the University or of the Principal or the management of any College or an Institution, as the case may be, and thereupon the Executive Council may confirm, modify or reverse the decision appealed against.

Provident and pension funds.

39. (*1*) The University shall constitute for the benefit of its employees such provident or pension fund or provide such insurance schemes as it may deem fit in such manner and subject to such conditions as may be prescribed by the Statutes.

(*2*) Where such provident fund or pension fund has been so constituted, the Central Government may declare that the provisions of the Provident Funds Act, 1925, shall apply to such fund, as if it were a Government provident fund. 19 of 1925.

Disputes as to constitution of authorities and bodies.

40. If any question arises as to whether any person has been duly elected or appointed as, or is entitled to be, a member of any authority or other body of the University, the matter shall be referred to the Visitor whose decision thereon shall be final.

41. All casual vacancies among the members (other than *ex officio* members) of any authority or other body of the University shall be filled, as soon as may be, by the person or body who appoints, elects or co-opts the member whose place has become vacant and person appointed, elected or co-opted to a casual vacancy shall be a member of such authority or body for the residue of the term for which the person whose place he fills would have been a member. Filling of casual vacancies.

42. No act or proceedings of any authority or other body of the University shall be invalid merely by reason of the existence of a vacancy or vacancies among its members. Proceedings of authorities or bodies not invalidated by vacancies.

43. No suit or other legal proceeding shall lie against any officer or other employee of the University for anything which is in good faith done or intended to be done in pursuance of any of the provisions of this Act, the Statutes or the Ordinances. Protection of action taken in good faith.

1 of 1872.

44. Notwithstanding anything contained in the Indian Evidence Act, 1872 or in any other law for the time being in force, a copy of any receipt, application, notice, order, proceeding or resolution of any authority or other body of the University, or any other document in possession of the University, or any entry in any register duly maintained by the University, if certified by the Registrar, shall be received as *prima facie* evidence of such receipt, application, notice, order, proceeding, resolution or document or the existence of entry in the register and shall be admitted as evidence of the matters and transactions therein where the original thereof would, if produced, have been admissible in evidence. Mode of proof of University record.

45. (*1*) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty: Power to remove difficulties.

Provided that no such order shall be made under this section after the expiry of three years from the commencement of this Act.

(*2*) Every order made under sub-section (*1*) shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the order or both Houses agree that the order should not be made, the order shall thereafter have effect only in such modified form or be of no effect as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that order.

46. (*1*) Every Statute, Ordinance or Regulation made under this Act shall be published in the Official Gazette. Statutes, Ordinances and Regulations to be published in the Official Gazette and to be laid before Parliament.

(*2*) Every Statute, Ordinance or Regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the Statute, Ordinance or Regulation or both Houses agree that the Statute, Ordinance or Regulation should not be made, the Statute, Ordinance or Regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that Statute, Ordinance or Regulation.

(*3*) The power to make Statutes, Ordinances or Regulations shall include the power to give retrospective effect, from a date not earlier than the date of commencement of this Act, to the Statutes, Ordinances or Regulations or any of them but no retrospective effect shall be

given to any Statute, Ordinance or Regulation so as to prejudicially affect the interests of any person to whom such Statute, Ordinance or Regulation may be applicable.

Transitional provisions.

47. Notwithstanding anything contained in this Act and the Statutes,—

(*a*) the first Chancellor and first Vice-Chancellor shall be appointed by the Central Government in such manner and on such conditions as may be deemed fit and each of the said officer shall hold office for such term, not exceeding five years, as may be specified by the Central Government;

(*b*) the first Registrar and the first Finance Officer shall be appointed by the Central Government and each of the said officers shall hold office for a term of three years;

(*c*) the first Court and the first Executive Council shall consist of not more than thirty-one members and eleven members, respectively, who shall be nominated by the Central Government and shall hold office for a term of three years;

(*d*) the first College Development Council shall consist of not more than eleven members, who shall be nominated by the Central Government and they shall hold office for a term of three years;

(*e*) the first Academic Council shall consist of not more than twenty-one members, who shall be nominated by the Central Government and they shall hold office for a term of three years:

Provided that if any vacancy occurs in the above offices or authorities, the same shall be filled by appointment or nomination, as the case may be, by the Central Government, and the person so appointed or nominated shall hold office for so long as the officer or member in whose place he is appointed or nominated would have held office, if such vacancy had not occurred.

Repeal of Arunachal Pradesh Act 1 of 1984.

48. (*1*) The Rajiv Gandhi University Act, 1984 is hereby repealed.

(*2*) Notwithstanding such repeal,—

(*a*) all appointments made, orders issued, degrees and other academic distinctions conferred, diplomas and certificates awarded, privileges granted, or other things done under the Rajiv Gandhi University Act, 1984, shall be deemed to have been respectively made, issued, conferred, awarded, granted or done under the corresponding provisions of this Act and, except as otherwise provided by or under this Act or the Statutes, continue in force unless and until they are superseded by any order made under this Act or the Statutes; and

Arunachal Pradesh Act 1 of 1984.

(*b*) all proceedings of Selection Committees for the appointment or promotion of teachers that took place before the commencement of this Act and all actions of the Executive Council in respect of the recommendations of such Selection Committees where no orders of appointment on the basis thereof were passed before the commencement of this Act shall, notwithstanding that the procedure for selection has been modified by this Act, be deemed to have been valid but further proceeding in connection with such pending selections shall be taken in accordance with the provisions of this Act and be continued from the stage where they stood immediately before such commencement, except if the concerned authorities take, with the approval of the Visitor, a decision to the contrary.

Amendment of Act 24 of 1973.

49. In the North-Eastern Hill University Act, 1973,—

(*i*) in section 1, in sub-section (*2*), for the words "States of Meghalaya and Arunachal Pradesh", the words "State of Meghalaya" shall be substituted;

(*ii*) in section 2, in clause (*l*), for the words "States of Meghalaya and Arunachal Pradesh", the words "State of Meghalaya" shall be substituted;

(*iii*) in section 6, in sub-section (*1*), for the words "States of Meghalaya and Arunachal Pradesh", the words "State of Meghalaya" shall be substituted.

THE SCHEDULE

(*See* section 30)

THE STATUTES OF THE UNIVERSITY

1. (*1*) The Chancellor shall be appointed by the Visitor from a panel of not less than three persons recommended by the Executive Council from amongst persons of eminence in the academic or public life of the country: The Chancellor.

Provided that if the Visitor does not approve of any of the persons so recommended, he may call for fresh recommendations from the Executive Council.

(*2*) The Chancellor shall hold office for a term of five years and shall not be eligible for re-appointment:

Provided that notwithstanding the expiry of his term of office, the Chancellor shall continue to hold office until his successor enters upon his office.

2. (*1*) The Vice-Chancellor shall be appointed by the Visitor from a panel of not less than three persons who shall be recommended by a Committee as constituted under clause (*2*): The Vice-Chancellor.

Provided that if the Visitor does not approve of any of the persons included in the panel, he may call for an extended fresh panel.

(*2*) The Committee referred to in clause (*1*) shall consist of three persons, out of whom two shall be nominated by the Executive Council and one by the Visitor and the nominee of the Visitor shall be the convener of the Committee:

Provided that none of the members of the Committee shall be an employee of the University or an Institution maintained by, or admitted to the privileges of, the University or a member of any authority of the University.

(*3*) The Vice-Chancellor shall be a whole-time salaried officer of the University.

(*4*) The Vice-Chancellor shall hold office for a term of five years from the date on which he enters upon his office, or until he attains the age of sixty-five years, whichever is earlier, and he shall not be eligible for re-appointment:

Provided that notwithstanding the expiry of the said period of five years, he shall continue in office until his successor is appointed and enters upon his office:

Provided further that the Visitor may direct any Vice-Chancellor after his term has expired, to continue in office for such period, not exceeding a total period of one year, as may be specified by him.

(*5*) The emoluments and other conditions of service of the Vice-Chancellor shall be as follows: —

(*i*) the Vice-Chancellor shall be paid a monthly salary and allowances, other than house rent allowance, at the rates fixed by the Central Government from time to time and he shall be entitled, without payment of rent, to use a furnished residence throughout his term of office and no charge shall fall on the Vice-Chancellor in respect of the maintenance of such residence.

(*ii*) the Vice-Chancellor shall be entitled to such terminal benefits and allowances as may be fixed by the Central Government from time to time:

Provided that where an employee of the University, or a College or an Institution maintained by, or admitted to the privileges of, the University, or of any other University or any College or Institution maintained by or admitted to the privileges of, such other University, is appointed as the Vice-Chancellor, he may be allowed to continue to

contribute to any provident fund of which he is a member and the University shall contribute to the account of such person in that provident fund at the same rate at which the person had been contributing immediately before his appointment as the Vice-Chancellor:

Provided further that where such employee had been member of any pension scheme, the University shall make the necessary contribution to such scheme.

(*iii*) The Vice-Chancellor shall be entitled to travelling allowance at such rates as may be fixed by the Executive Council.

(*iv*) The Vice-Chancellor shall be entitled to leave on full pay at the rate of thirty days in a calendar year and the leave shall be credited to his account in advance in two half-yearly instalments of fifteen days each on the first day of January and July every year:

Provided that if the Vice-Chancellor assumes or relinquishes charge of the office of the Vice-Chancellor during the currency of a half year, the leave shall be credited proportionately at the rate of two and-a-half days for each completed month of service.

(*v*) In addition to the leave referred to in sub-clause (*iv*), the Vice-Chancellor shall also be entitled to half-pay leave at the rate of twenty days for each completed year of service, and half-pay leave may also be availed of as commuted leave on full pay on medical certificate:

Provided that when such commuted leave is availed of, twice the amount of half-pay leave shall be debited against half-pay leave due.

(*6*) If the office of the Vice-Chancellor becomes vacant due to death, resignation or otherwise, or if he is unable to perform his duties due to ill-health or any other cause, the Pro-Vice-Chancellor shall perform the duties of the Vice-Chancellor:

Provided that if the Pro-Vice-Chancellor is not available, the senior-most Professor shall perform the duties of the Vice-Chancellor until a new Vice-Chancellor assumes office or the existing Vice-Chancellor resumes the duties of his office, as the case may be.

Powers and duties of the Vice-Chancellor.

3. (*1*) The Vice-Chancellor shall be *ex officio* Chairman of the Executive Council, the Academic Council and the Finance Committee and shall, in the absence of the Chancellor, preside at the Convocations held for conferring degrees and at meetings of the Court.

(*2*) The Vice-Chancellor shall be entitled to be present at, and address, any meeting of any authority or other body of the University, but shall not be entitled to vote thereat unless he is a member of such authority or body.

(*3*) It shall be the duty of the Vice-Chancellor to see that this Act, the Statutes, the Ordinances and the Regulations are duly observed and he shall have all the powers necessary to ensure such observance.

(*4*) The Vice-Chancellor shall have all the powers necessary for the proper maintenance of discipline in the University and he may delegate any such powers to such person or persons as he deems fit.

(*5*) The Vice-Chancellor shall have the power to convene or cause to be convened the meetings of the Executive Council, the Academic Council and the Finance Committee.

Pro-Vice-Chancellor.

4. (*1*) The Pro-Vice-Chancellor shall be appointed by the Executive Council on the recommendation of the Vice-Chancellor:

Provided that where the recommendation of the Vice-Chancellor is not accepted by the Executive Council, the matter shall be referred to the Visitor who may either appoint the person recommended by the Vice-Chancellor or ask the Vice-Chancellor to recommend another person to the Executive Council:

Provided further that the Executive Council may, on the recommendation of the Vice-Chancellor, appoint a Professor to discharge the duties of a Pro-Vice-Chancellor in addition to his own duties as a Professor.

(*2*) The term of office of a Pro-Vice-Chancellor shall be such as may be decided by the Executive Council but it shall not in any case exceed five years or until the expiration of the term of office of the Vice-Chancellor, whichever is earlier:

Provided that a Pro-Vice-Chancellor whose term of office has expired shall be eligible for re-appointment:

Provided further that, in any case, a Pro-Vice-Chancellor shall retire on attaining the age of sixty-five years:

Provided also that a Pro-Vice-Chancellor shall, while discharging the duties of the Vice-Chancellor under clause (*6*) of Statute 2, continue in office notwithstanding the expiration of his term of office as Pro-Vice-Chancellor, until the Vice-Chancellor resumes office or a new Vice-Chancellor assumes office, as the case may be.

(*3*) The emoluments and other terms and conditions of service of a Pro-Vice-Chancellor shall be such as may be prescribed by the Ordinances.

(*4*) The Pro-Vice-Chancellor shall assist the Vice-Chancellor in respect of such matters as may be specified by the Vice-Chancellor in this behalf, from time to time, and shall also exercise such powers and perform such duties as may be assigned or delegated to him by the Vice-Chancellor.

Deans of Faculties.

5. (*1*) Every Dean of Faculty shall be appointed by the Vice-Chancellor from amongst the Professors in the Faculty by rotation in the order of seniority for a period of three years:

Provided that in case there is only one Professor or no Professor in a Faculty, the Dean shall be appointed, for the time being, from amongst the Professor, if any, and the Readers in the Faculty by rotation in the order of seniority:

Provided further that a Dean on attaining the age of sixty-two years shall cease to hold office as such.

(*2*) When the office of the Dean is vacant or when the Dean is, by reason of illness, absence or any other cause, unable to perform duties of his office, the duties of the office shall be performed by the senior-most Professor or Reader, as the case may be, in the Faculty.

(*3*) The Dean shall be the Head of the Faculty and shall be responsible for the conduct and maintenance of the standards of teaching and research in the Faculty and shall have such other functions as may be prescribed by the Ordinances.

(*4*) The Dean shall have the right to be present and to speak at any meeting of the Boards of Studies or Committees of the Faculty, as the case may be, but shall not have the right to vote thereat unless he is a member thereof.

The Registrar.

6. (*1*) The Registrar shall be appointed by the Executive Council on the recommendation of a Selection Committee constituted for the purpose and shall be a whole-time salaried officer of the University.

(*2*) He shall be appointed for a term of five years and shall be eligible for re-appointment.

(*3*) The emoluments and other terms and conditions of service of the Registrar shall be such as may be prescribed by the Executive Council from time to time:

Provided that the Registrar shall retire on attaining the age of sixty-two years:

Provided further that a Registrar shall, notwithstanding his attaining the age of sixty-two years, continue in office until his successor is appointed and enters upon his office or until the expiry of a period of one year, whichever is earlier.

(4) When the office of the Registrar is vacant or when the Registrar is, by reason of illness, absence or any other cause, unable to perform the duties of his office, the duties of the office shall be performed by such person as the Vice-Chancellor may appoint for the purpose.

(5) (a) The Registrar shall have power to take disciplinary action against such of the employees, excluding teachers and other academic staff, as may be specified in the order of the Executive Council and to suspend them pending inquiry, to administer warnings to them or to impose on them the penalty of censure or the withholding of increment:

Provided that no such penalty shall be imposed unless the person has been given a reasonable opportunity of showing cause against the action proposed to be taken in regard to him.

(b) An appeal shall lie to the Vice-Chancellor against any order of the Registrar imposing any of the penalties specified in sub-clause (a).

(c) In a case where the inquiry discloses that a punishment beyond the power of the Registrar is called for, the Registrar shall, upon the conclusion of the inquiry, make a report to the Vice-Chancellor along with his recommendations:

Provided that an appeal shall lie to the Executive Council against an order of the Vice-Chancellor imposing any penalty.

(6) The Registrar shall be *ex officio* Secretary of the Executive Council, the Academic Council and the College Development Council, but shall not be deemed to be a member of any of these authorities and he shall be *ex officio* Member-Secretary of the Court.

(7) It shall be the duty of the Registrar —

(a) to be the custodian of the records, the common seal and such other property of the University as the Executive Council shall commit to his charge;

(b) to issue all notices convening meetings of the Court, the Executive Council, the Academic Council, the College Development Council and of any Committees appointed by those authorities;

(c) to keep the minutes of all the meetings of the Court, the Executive Council, the Academic Council, the College Development Council and of any Committees appointed by those authorities;

(d) to conduct the official correspondence of the Court, the Executive Council, the Academic Council and the College Development Council;

(e) to supply to the Visitor, copies of the agenda of the meetings of the authorities of the University as soon as they are issued and the minutes of such meetings;

(f) to represent the University in suits or proceedings by or against the University, sign powers of attorney and verify pleadings or depute his representative for the purpose; and

(g) to perform such other duties as may be specified in the Statutes, the Ordinances or the Regulations or as may be required from time to time, by the Executive Council or the Vice-Chancellor.

The Finance Officer.

7. (1) The Finance Officer shall be appointed by the Executive Council on the recommendations of a Selection Committee constituted for the purpose and he shall be a whole-time salaried officer of the University.

(2) The Finance Officer shall be appointed for a term of five years and shall be eligible for re-appointment.

(3) The emoluments and other terms and conditions of service of the Finance Officer shall be such as may be prescribed by the Executive Council from time to time:

Provided that the Finance Officer shall retire on attaining the age of sixty-two years:

Provided further that the Finance Officer shall, notwithstanding his attaining the age of sixty-two years, continue in office until his successor is appointed and enters upon his office or until the expiry of a period of one year, whichever is earlier.

(*4*) When the office of the Finance Officer is vacant or when the Finance Officer is, by reason of illness, absence or any other cause, unable to perform the duties of his office, the duties of the office shall be performed by such person as the Vice-Chancellor may appoint for the purpose.

(*5*) The Finance Officer shall be *ex officio* Secretary of the Finance Committee, but shall not be deemed to be a member of such Committee.

(*6*) The Finance Officer shall —

(*a*) exercise general supervision over the funds of the University and shall advise it as regards its financial policy; and

(*b*) perform such other financial functions as may be assigned to him by the Executive Council or as may be prescribed by the Statutes or the Ordinances.

(*7*) Subject to the control of the Executive Council, the Finance Officer shall —

(*a*) hold and manage the property and investments of the University including trust and endowed property;

(*b*) ensure that the limits fixed by the Executive Council for recurring and non-recurring expenditure for a year are not exceeded and that all moneys are expended on the purpose for which they are granted or allotted;

(*c*) be responsible for the preparation of annual accounts and the budget of the University and for their presentation to the Executive Council;

(*d*) keep a constant watch on the state of the cash and bank balances and on the state of investments;

(*e*) watch the progress of the collection of revenue and advise on the methods of collection employed;

(*f*) ensure that the registers of buildings, land, furniture and equipment are maintained up-to-date and that stock-checking is conducted, of equipment and other consumable materials in all offices, Departments, University, Institutes, Centres and Specialised Laboratories;

(*g*) bring to the notice of the Vice-Chancellor unauthorised expenditure and other financial irregularities and suggest disciplinary action against persons at fault; and

(*h*) call for from any office, Department, Centre, Laboratory, College or Institution maintained by the University any information or returns that he may consider necessary for the performance of his duties.

(*8*) Any receipt given by the Finance Officer or the person or persons duly authorised in this behalf by the Executive Council for any money payable to the University shall be sufficient discharge for payment of such money.

8. (*1*) The Controller of Examinations shall be appointed by the Executive Council on the recommendations of a Selection Committee constituted for the purpose and he shall be a whole-time salaried officer of the University. The Controller of Examinations.

(*2*) The Controller of Examinations shall be appointed for a term of five years and shall be eligible for re-appointment.

(*3*) The emoluments and other terms and conditions of service of the Controller of Examinations shall be such as may be prescribed by the Executive Council from time to time:

Provided that the Controller of Examinations shall retire on attaining the age of sixty-two years:

Provided further that the Controller of Examinations shall, notwithstanding his attaining the age of sixty-two years, continue in office until his successor is appointed and enters upon his office or until the expiry of a period of one year, whichever is earlier.

(*4*) When the office of the Controller of Examinations is vacant or when the Controller of Examinations is, by reason of illness, absence or any other cause, unable to perform the duties of his office, the duties of the office shall be performed by such person as the Vice-Chancellor may appoint for the purpose.

(*5*) The Controller of Examinations shall arrange for and superintend the examinations of the University in the manner prescribed by the Ordinances.

The Librarian.

9. (*1*) The Librarian shall be appointed by the Executive Council on the recommendations of the Selection Committee constituted for the purpose and he shall be a whole-time salaried officer of the University.

(*2*) The Librarian shall exercise such powers and perform such duties as may be assigned to him by the Executive Council.

Meetings of the Court.

10. (*1*) An annual meeting of the Court shall be held on a date to be fixed by the Executive Council unless some other date has been fixed by the Court in respect of any year.

(*2*) At an annual meeting of the Court, a report on the working of the University during the previous year, together with a statement of the receipts and expenditure, the balance-sheet as audited, and the financial estimates for the next year shall be presented.

(*3*) A copy of the statement of receipts and expenditure, the balance-sheet and the financial estimates referred to in clause (*2*) shall be sent to every member of the Court at least seven days before the date of the annual meeting.

(*4*) Special meetings of the Court may be convened by the Executive Council or the Vice-Chancellor or if there is no Vice-Chancellor, the Pro-Vice-Chancellor or if there is no Pro-Vice-Chancellor, by the Registrar.

(*5*) Eleven members of the Court shall form a quorum for a meeting of the Court.

Quorum for meeting of the Executive Council.

11. Seven members of the Executive Council shall form a quorum for a meeting of the Executive Council.

Powers and functions of the Executive Council.

12. (*1*) The Executive Council shall have the power of management and administration of the revenues and property of the University and the conduct of all administrative affairs of the University not otherwise provided for.

(*2*) Subject to the provisions of this Act, the Statutes and the Ordinances, the Executive Council shall, in addition to all other powers vested in it, have the following powers, namely:—

(*i*) to create teaching and other academic posts, to determine the number and emoluments of such posts and to define the duties and conditions of service of Professors, Readers, Lecturers and other academic staff:

Provided that no action shall be taken by the Executive Council in respect of the number and qualifications of teachers and other academic staff otherwise than after consideration of the recommendations of the Academic Council;

(*ii*) to appoint such Professors, Readers, Lecturers and other academic staff, as may be necessary, on the recommendation of the Selection Committee constituted for the purpose and to fill-up temporary vacancies therein;

(*iii*) to recognise persons as University recognised teachers in the manner prescribed by the Ordinances;

(*iv*) to create administrative, ministerial and other necessary posts (including Chairs) and to make appointments thereto in the manner prescribed by the Ordinances;

(*v*) to grant leave of absence to any officer of the University other than the Chancellor and the Vice-Chancellor, and to make necessary arrangements for the discharge of the functions of such officer during his absence;

(*vi*) to regulate and enforce discipline among employees in accordance with the Statutes and the Ordinances;

(*vii*) to manage and regulate the finances, accounts, investments, property, business and all other administrative affairs of the University and for that purpose to appoint such agents as it may think fit;

(*viii*) to fix limits on the total recurring and the total non-recurring expenditure for a year on the recommendation of the Finance Committee;

(*ix*) to invest any money belonging to the University, including any unapplied income, in such stocks, funds, shares or securities, from time to time as it may think fit or in the purchase of immovable property in India, with the like powers of varying such investment from time to time;

(*x*) to transfer or accept transfers of any movable or immovable property on behalf of the University;

(*xi*) to provide buildings, premises, furniture and apparatus and other means needed for carrying on the work of the University;

(*xii*) to enter into, vary, carry out and cancel contracts on behalf of the University;

(*xiii*) to entertain, adjudicate upon, and if thought fit, to redress any grievances of the employees and students of the University who may, for any reason, feel aggrieved;

(*xiv*) to appoint examiners and moderators and, if necessary, to remove them, and to fix their fees, emoluments and travelling and other allowances, after consulting the Academic Council;

(*xv*) to select a common seal for the University and provide for the custody and use of such seal;

(*xvi*) to make such special arrangements as may be necessary for the residence of women students;

(*xvii*) to institute fellowships, scholarships, studentships, medals and prizes;

(*xviii*) to provide for the appointment of Visiting Professors, Emeritus Professors, Consultants and Scholars and determine the terms and conditions of such appointments; and

(*xix*) to exercise such other powers and perform such other duties as may be conferred or imposed on it by the Act or the Statutes.

13. Nine members of the Academic Council shall form a quorum for a meeting of the Academic Council.

Quorum for meetings of the Academic Council.

14. Subject to the provisions of this Act, the Statutes and the Ordinances, the Academic Council shall, in addition to all other powers vested in it, have the following powers, namely:—

Powers and functions of the Academic Council.

(*a*) to exercise general supervision over the academic policies of the University and to give directions regarding methods of instruction, co-ordination of teaching among the Colleges and the Institutions, evaluation of research and improvement of academic standards;

(*b*) to bring about and promote inter-Faculty co-ordination and to establish or appoint such committees or boards as may be deemed necessary for the purpose;

(*c*) to consider matters of general academic interest either on its own initiative, or on a reference by a Faculty or the Executive Council, and to take appropriate action thereon; and

(*d*) to frame such Regulations and rules consistent with the Statutes and the Ordinances regarding the academic functioning of the University, discipline, residence, admissions, award of fellowships and studentships, fees, concessions, corporate life and attendance.

Faculties and Departments.

15. (*1*) The University shall have such Faculties as may be specified in the Statutes.

(*2*) Every Faculty shall have a Faculty Board and the members of the first Faculty Board shall be nominated by the Executive Council for a period of three years.

(*3*) The composition, powers and functions of a Faculty Board shall be prescribed by the Ordinances.

(*4*) The conduct of the meetings of a Faculty Board and the quorum required for such meetings shall be prescribed by the Ordinances.

(*5*) (*a*) Every Faculty shall consist of such Departments as may be assigned to it by the Ordinances:

Provided that the Executive Council may, on the recommendation of the Academic Council, establish Centres of Studies to which may be assigned such teachers of the University as the Executive Council may consider necessary.

(*b*) Each Department shall consist of the following members, namely:—

(*i*) Teachers of the Department;

(*ii*) Persons conducting research in the Department;

(*iii*) Dean of the Faculty;

(*iv*) Honorary Professors, if any, attached to the Department; and

(*v*) Such other persons as may be members of the Department in accordance with the provisions of the Ordinances.

Board of Studies.

16. (*1*) Each Department shall have a Board of Studies.

(*2*) The constitution of the Board of Studies and the term of office of its members shall be prescribed by the Ordinances.

(*3*) Subject to the overall control and supervision of the Academic Council, the functions of a Board of Studies shall be to approve subjects for research for various degrees and other requirements of research degrees and to recommend to the concerned Faculty Board in the manner prescribed by the Ordinances —

(*a*) courses of studies and appointment of examiners for courses, but excluding research degrees;

(*b*) appointment of supervisors for research; and

(*c*) measures for the improvement of the standard of teaching and research:

Provided that the above functions of a Board of Studies shall, during the period of three years immediately after the commencement of the Act, be performed by the Department.

The Finance Committee.

17. (*1*) The Finance Committee shall consist of the following members, namely:—

(*i*) the Vice-Chancelior;

(*ii*) the Pro-Vice-Chancellor;

(*iii*) one person to be nominated by the Court;

(*iv*) three persons to be nominated by the Executive Council, out of whom at least one shall be a member of the Executive Council; and

(*v*) three persons to be nominated by the Visitor.

(*2*) Five members of the Finance Committee shall form a quorum for a meeting of the Finance Committee.

(*3*) All the members of the Finance Committee, other than *ex officio* members, shall hold office for a term of three years.

(*4*) A member of the Finance Committee shall have the right to record a minute of dissent if he does not agree with any decision of the Finance Committee.

(*5*) The Finance Committee shall meet at least thrice every year to examine the accounts and to scrutinise proposals for expenditure.

(*6*) All proposals relating to creation of posts, and those items which have not been included in the Budget, shall be examined by the Finance Committee before they are considered by the Executive Council.

(*7*) The annual accounts and the financial estimates of the University prepared by the Finance Officer shall be laid before the Finance Committee for consideration and comments and thereafter submitted to the Executive Council for approval.

(*8*) The Finance Committee shall recommend limits for the total recurring expenditure and the total non-recurring expenditure for the year, based on the income and resources of the University (which, in the case of productive works, may include the proceeds of loans).

Selection Committees.

18. (*1*) There shall be Selection Committees for making recommendations to the Executive Council for appointment to the posts of Professor, Reader, Lecturer, Registrar, Finance Officer, Librarian and Principals of Colleges and Institutions maintained by the University.

(*2*) The Selection Committee for appointment to the posts specified in Column 1 of the Table below shall consist of the Vice-Chancellor, a nominee of the Visitor and the persons specified in the corresponding entry in Column 2 of the said Table:

TABLE

1	2
Professor	(*i*) The Dean of the Faculty.
	(*ii*) The Head of the Department if he is a Professor.
	(*iii*) Three persons not in the service of the University, nominated by the Executive Council, out of a panel of names recommended by the Academic Council for their special knowledge of, or interest in, the subject with which the Professor will be concerned.
Reader/Lecturer	(*i*) The Head of the Department.
	(*ii*) One Professor nominated by the Vice-Chancellor.
	(*iii*) Two persons not in the service of the University, nominated by the Executive Council, out of a panel of names recommended by the Academic Council for their special knowledge of, or interest in, the subject with which the Reader/Lecturer will be concerned.
Registrar/Finance Officer	(*i*) Two members of the Executive Council nominated by it.

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1	2
	(*ii*) One person not in the service of the University nominated by the Executive Council.
Librarian	(*i*) Two persons not in the service of the University who have special knowledge of the subject of the Library Science/Library Administration nominated by the Executive Council.
	(*ii*) One person not in the service of the University nominated by the Executive Council.
Principal of College or Institution maintained by the University.	Three persons not in the service of the University of whom two shall be nominated by the Executive Council and one by the Academic Council for their special knowledge of, or interest in, a subject in which instruction is being provided by the College or Institution.

Note 1.— Where the appointment is being made for an inter-disciplinary project, the head of the project shall be deemed to be the Head of the Department concerned.

Note 2.— The Professor to be nominated by the Vice-Chancellor shall be a Professor concerned with the speciality for which the selection is being made and the Vice-Chancellor shall consult the Head of the Department and the Dean of Faculty before nominating the Professor.

(*3*) The Vice-Chancellor, or in his absence the Pro-Vice-Chancellor, shall convene and preside at the meeting of the Selection Committee:

Provided that the meeting of the Selection Committee shall be fixed after prior consultation with, and subject to the convenience of Visitor's nominee and the experts nominated by the Executive Council:

Provided further that the proceedings of the Selection Committee shall not be valid unless,—

(*a*) where the number of Visitor's nominee and the persons nominated by the Executive Council is four in all, at least three of them attend the meeting; and

(*b*) where the number of Visitor's nominee and the persons nominated by the Executive Council is three in all, at least two of them attend the meeting.

(*4*) The procedure to be followed by the Selection Committee shall be laid down in the Ordinances.

(*5*) If the Executive Council is unable to accept the recommendations made by the Selection Committee, it shall record its reasons and submit the case to the Visitor for final orders.

(*6*) Appointments to temporary posts shall be made in the manner indicated below:—

(*i*) If the temporary vacancy is for duration longer than one academic session, it shall be filled on the advice of the Selection Committee in accordance with the procedure indicated in the foregoing clauses:

Provided that if the Vice-Chancellor is satisfied that in the interests of work it is necessary to fill the vacancy, the appointment may be made on a purely temporary basis on the advice of a local Selection Committee referred to in sub-clause (*ii*) for a period not exceeding six months.

(*ii*) If the temporary vacancy is for a period less than a year, an appointment to such vacancy shall be made on the recommendation of a local Selection Committee consisting of the Dean of the Faculty concerned, the Head of the Department and a nominee of the Vice-Chancellor:

Provided that if the same person holds the offices of the Dean and the Head of the Department, the Selection Committee may contain two nominees of the Vice-Chancellor:

Provided further that in the case of sudden casual vacancies of teaching posts caused by death or any other reason, the Dean may, in consultation with the Head of the Department concerned, make a temporary appointment for a month and report to the Vice-Chancellor and the Registrar about such appointment.

(*iii*) No teacher appointed temporarily shall, if he is not recommended by a regular Selection Committee for appointment under the Statutes, be continued in service on such temporary employment, unless he is subsequently selected by a local Selection Committee or a regular Selection Committee, for a temporary or permanent appointment, as the case may be.

Special mode of appointment.

19. (*1*) Notwithstanding anything contained in Statute 18, the Executive Council may invite a person of high academic distinction and professional attainments to accept a post of Professor or any other equivalent academic post in the University on such terms and conditions as it deems fit and on the person agreeing to do so appoint him to the post.

(*2*) The Executive Council may appoint a teacher or any other academic staff working in any other University or organisation for undertaking a joint project in accordance with the manner laid down in the Ordinances.

Appointment for a fixed tenure.

20. The Executive Council may appoint a person selected in accordance with the procedure laid down in Statute 18 for a fixed tenure on such terms and conditions as it deems fit.

Recognised teachers.

21. (*1*) The qualifications of recognised teachers shall be such as may be prescribed by the Ordinances.

(*2*) All applications for the recognition of teachers shall be made in such manner as may be laid down by the Ordinances.

(*3*) No teacher shall be recognised as a teacher except on the recommendation of a Selection Committee constituted for the purpose in the manner laid down in the Ordinances.

(*4*) The period of recognition of a teacher shall be determined by the Ordinances made in that behalf.

(*5*) The Academic Council may, by a special resolution passed by a majority of not less than two-thirds of the members present and voting, withdraw recognition from a teacher:

Provided that no such resolution shall be passed until notice in writing has been given to the person concerned calling upon him to show cause, within such time as may be specified in the notice, why such resolution should not be passed and until his objections, if any, and any evidence he may produce in support of them have been considered by the Academic Council.

Approved teachers.

22. The qualifications, manner of recognising, and withdrawal of recognition, of approved teachers shall be such as may be prescribed by the Ordinances.

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Committees.

23. (*1*) An authority of the University may appoint as many standing or special Committees as it may deem fit, and may appoint to such Committees persons who are not members of such authority.

(*2*) A Committee appointed under clause (*1*) may deal with any subject delegated to it subject to subsequent confirmation by the authority appointing it.

Terms and conditions of service and code of conduct of the teachers, etc.

24. (*1*) All the teachers and other academic staff of the University shall, in the absence of any agreement to the contrary, be governed by the terms and conditions of service and code of conduct as are specified in the Statutes, the Ordinances and the Regulations.

(*2*) The emoluments of members of the academic staff shall be such as may be prescribed by the Ordinances.

(*3*) Every teacher and member of the academic staff of the University shall be appointed on a written contract, the form of which shall be prescribed by the Ordinances.

(*4*) A copy of every contract referred to in clause (*3*) shall be deposited with the Registrar.

Terms and conditions of service and code of conduct of other employees.

25. (*1*) All the employees of the University, other than the teachers and other academic staff shall, in the absence of any contract to the contrary, be governed by the terms and conditions of service and code of conduct as are specified in the Statutes, the Ordinances and the Regulations.

(*2*) The manner of appointment and emoluments of employees, other than the teachers and other academic staff, shall be such as may be prescribed by the Ordinances.

Seniority list.

26. (*1*) Whenever, in accordance with the Statutes, any person is to hold an office or be a member of an authority of the University by rotation according to seniority, such seniority shall be determined according to the length of continuous service of such person in his grade and in accordance with such other principles as the Executive Council may, from time to time, prescribe.

(*2*) It shall be the duty of the Registrar to prepare and maintain in respect of each class of persons to whom the provisions of these Statutes apply, a complete and up-to-date seniority list in accordance with the provisions of clause (*1*).

(*3*) If two or more persons have equal length of continuous service in a particular grade or the relative seniority of any person or persons is otherwise in doubt, the Registrar may, on his own motion and shall, at the request of any such person, submit the matter to the Executive Council whose decision thereon shall be final.

Removal of employees of the University.

27. (*1*) Where there is an allegation of misconduct against a teacher, a member of the academic staff or other employee of the University, the Vice-Chancellor, in the case of the teacher or a member of the academic staff, and the authority competent to appoint (hereinafter referred to as the appointing authority) in the case of other employee may, by order in writing, place such teacher, member of the academic staff or other employee, as the case may be, under suspension and shall forthwith report to the Executive Council the circumstances in which the order was made:

Provided that the Executive Council may, if it is of the opinion, that the circumstances of the case do not warrant the suspension of the teacher or a member of the academic staff, revoke such order.

(*2*) Notwithstanding anything contained in the terms of the contract of appointment or of any other terms and conditions of service of the employees, the Executive Council in respect of teachers and other academic staff, and the appointing authority in respect of other employees, shall have the power to remove a teacher or a member of the academic staff or other employee, as the case may be, on grounds of misconduct.

(*3*) Save as aforesaid, the Executive Council, or as the case may be, the appointing authority, shall not be entitled to remove any teacher, member of the academic staff or other employee except for a good cause and after giving three months' notice or on payment of three months' salary in lieu thereof.

(*4*) No teacher, member of the academic staff or other employee shall be removed under clause (*2*) or clause (*3*) unless he has been given a reasonable opportunity of showing cause against the action proposed to be taken in regard to him.

(*5*) The removal of a teacher, member of the academic staff or other employee shall take effect from the date on which the order of removal is made:

Provided that where the teacher, member of the academic staff or other employee is under suspension at the time of his removal, such removal shall take effect from the date on which he was placed under suspension.

(*6*) Notwithstanding anything contained in the foregoing provisions of this Statute, a teacher, member of the academic staff or other employee may resign,—

(*a*) if he is a permanent employee, only after giving three months' notice in writing to the Executive Council or the appointing authority, as the case may be, or by paying three months' salary in lieu thereof;

(*b*) if he is not a permanent employee, only after giving one month's notice in writing to the Executive Council or, as the case may be, the appointing authority or by paying one month's salary in lieu thereof:

Provided that such resignation shall take effect only on the date on which the resignation is accepted by the Executive Council or the appointing authority, as the case may be.

Honorary degrees.

28. (*1*) The Executive Council may, on the recommendation of the Academic Council and by a resolution passed by a majority of not less than two-thirds of the members present and voting, make proposals to the Visitor for the conferment of honorary degrees:

Provided that in case of emergency, the Executive Council may, on its own motion, make such proposals.

(*2*) The Executive Council may, by a resolution passed by a majority of not less than two-thirds of the members present and voting, withdraw, with the previous sanction of the Visitor, any honorary degree conferred by the University.

Withdrawal of degrees, etc.

29. The Executive Council may, by a special resolution passed by a majority of not less than two-thirds of the members present and voting, withdraw any degree or academic distinction conferred on, or any certificate or diploma granted to, any person by the University for good and sufficient cause:

Provided that no such resolution shall be passed until a notice in writing has been given to that person calling upon him to show cause within such time as may be specified in the notice why such a resolution should not be passed and until his objections, if any, and any evidence he may produce in support of them, have been considered by the Executive Council.

Maintenance of discipline among students of the University.

30. (*1*) All powers relating to the maintenance of discipline and disciplinary action in relation to the students of the University shall vest in the Vice-Chancellor.

(*2*) There shall be a Proctor of the University to assist the Vice-Chancellor in the exercise of the powers referred to in clause (*1*), who shall be appointed by the Executive Council from amongst the Professors and Readers in the manner prescribed by the Ordinances.

(*3*) The Vice-Chancellor may delegate all or any of the powers referred to in clause (*1*), as he deems proper, to the Proctor and to such other officers as he may specify in this behalf.

(*4*) Without prejudice to the generality of his powers relating to the maintenance of discipline and taking such action, as may seem to him appropriate for the maintenance of discipline, the Vice-Chancellor may, in exercise of such powers, by order, direct that any student or students be expelled or rusticated, for a specified period, or be not admitted to a course or courses of study in a College, Institution or Department or a Faculty of the University for a stated period, or be punished with fine for an amount to be specified in the order, or be debarred from taking an examination or examinations conducted by the University, College, Institution or Department or a Faculty for one or more years, or that the results of the student or students concerned in the examination or examinations in which he or they have appeared be cancelled.

(*5*) The Principals of Colleges, Institutions, Deans of Faculties and Heads of teaching Departments in the University shall have the authority to exercise all such disciplinary powers over the students in their respective Colleges, Institutions, Faculties and teaching Departments in the University, as may be necessary for the proper conduct of such Colleges, Institutions, Faculties and teaching Departments.

(*6*) Without prejudice to the powers of the Vice-Chancellor and the Principal and other persons specified in clause (*5*), detailed rules of discipline and proper conduct shall be made by the University. The Principals of Colleges, Institutions, Deans of Faculties and Heads of teaching Departments in the University may also make such supplementary rules as they deem necessary for the purposes stated therein.

(*7*) At the time of admission, every student shall be required to sign a declaration to the effect that he submits himself to the disciplinary jurisdiction of the Vice-Chancellor and other authorities of the University.

Maintenance of discipline among students of Colleges or an Institution not maintained by University.

31. All powers relating to discipline and disciplinary action in relation to students of a College or an Institution not maintained by the University, shall vest in the Principal of the College or Institution, as the case may be, in accordance with the procedure prescribed by the Ordinances.

Admission of Colleges, etc., to the privileges of the University.

32. (*1*) Colleges and other Institutions situated within the jurisdiction of the University may be admitted to such privileges of the University as the Executive Council and the College Development Council may decide on the following conditions, namely:—

(*i*) Every such College or Institution shall have a regularly constituted Governing Body, consisting of not more than fifteen persons approved by the Executive Council and including among others, two teachers of the University to be nominated by the Executive Council and three representatives of the teaching staff of whom the Principal of the College or Institution shall be one. The procedure for appointment of members of the Governing Body and other matters affecting the management of a College or an Institution shall be prescribed by the Ordinances:

Provided that the said condition shall not apply in the case of Colleges and Institutions maintained by Government which shall, however, have an Advisory Committee consisting of not more than fifteen persons which shall consist of among others, three teachers including the Principal of the College or Institution, and two teachers of the University nominated by the Executive Council.

(*ii*) Every such College or Institution shall satisfy the Executive Council and the College Development Council on the following matters, namely:—

(*a*) the suitability and adequacy of its accommodation and equipment for teaching;

(*b*) the qualifications and adequacy of its teaching staff and the conditions of their service;

(*c*) the arrangements for the residence, welfare, discipline and supervision of students;

(*d*) the adequacy of financial provision made for the continued maintenance of the College or Institution; and

(*e*) such other matters as are essential for the maintenance of the standards of University education.

(*iii*) No College or Institution shall be admitted to any privileges of the University except on the recommendation of the Academic Council made after considering the report of a Committee of Inspection appointed for the purpose by the Academic Council.

(*iv*) Colleges and Institutions desirous of admission to any privileges of the University shall be required to intimate their intention to do so in writing so as to reach the Registrar not later than the 15th August, preceding the year from which permission applied for is to have effect.

(*v*) A College or an Institution shall not, without the previous permission of the Executive Council, College Development Council and the Academic Council, suspend instruction in any subject or course of study which it is authorised to teach and teaches.

(*2*) Appointment to the teaching staff and Principal of Colleges or Institutions admitted to the privileges of the University shall be made in the manner prescribed by the Ordinances:

Provided that nothing in this clause shall apply to Colleges and Institutions maintained by Government.

(*3*) The service conditions of the administrative and other non-academic staff of every College or Institution referred to in clause (*2*) shall be such as may be laid down in the Ordinances:

Provided that nothing in this clause shall apply to Colleges and Institutions maintained by Government.

(*4*) Every College or Institution admitted to the privileges of the University shall be inspected at least once in every two academic years by a Committee appointed by the Academic Council, and the report of the Committee shall be submitted to the Academic Council, which shall forward the same to the College Development Council and Executive Council with such recommendations as it may deem fit to make.

(*5*) The College Development Council and the Executive Council, after considering the report and the recommendations, if any, of the Academic Council, shall forward a copy of the report to the Governing Body of the College or Institution with such remarks, if any, as they may deem fit for suitable action.

(*6*) The Executive Council may, after consulting the College Development Council and Academic Council, withdraw any privileges granted to a College or an Institution, at any time it considers that the College or Institution does not satisfy any of the conditions on the fulfilment of which the College or Institution was admitted to such privileges:

Provided that before any privileges are so withdrawn, the Governing Body of the College or Institution concerned shall be given an opportunity to represent to the Executive Council as to why such action should not be taken.

(*7*) Subject to the conditions set forth in clause (*1*), the Ordinances may prescribe—

(*i*) such other conditions as may be considered necessary; and

(*ii*) the procedure for the admission of Colleges and Institutions to the privileges of the University and for the withdrawal of those privileges.

33. Convocations of the University for the conferring of degrees or for other purposes shall be held in such manner as may be prescribed by the Ordinances. Convocations.

Acting Chairman of meetings.

34. Where no provision is made for a President or Chairman to preside over a meeting of any authority of the University or any Committee of such authority or when the President or Chairman so provided for is absent, the members present shall elect one from among themselves to preside at such meeting.

Resignation.

35. Any member, other than an *ex officio* member of the Court, the Executive Council, the Academic Council or any other authority of the University or any Committee of such authority may resign by letter addressed to the Registrar and the resignation shall take effect as soon as such letter is received by the Registrar.

Disqualifications.

36. (*1*) A person shall be disqualified for being chosen as, and for being, a member of any of the authorities of the University—

(*i*) if he is of unsound mind;

(*ii*) if he is an undischarged insolvent;

(*iii*) if he has been convicted by a court of law of an offence involving moral turpitude and sentenced in respect thereof to imprisonment for not less than six months.

(*2*) If any question arises as to whether a person is or had been subjected to any of the disqualifications mentioned in clause (*1*), the question shall be referred to the Visitor and his decision shall be final and no suit or other proceeding shall lie in any civil court against such decision.

Residence condition for membership and office.

37. Notwithstanding anything contained in the Statutes, a person who is not ordinarily resident in India shall not be eligible to be an officer of the University or a member of any authority of the University.

Membership of authorities by virtue of membership of other bodies.

38. Notwithstanding anything contained in the Statutes, a person who holds any post in the University or is a member of any authority or body of the University in his capacity as a member of a particular authority or body or as the holder of a particular appointment shall hold such office or membership only for so long as he continues to be a member of that particular authority or body or the holder of that particular appointment, as the case may be.

Alumni Association.

39. (*1*) There shall be an Alumni Association for the University.

(*2*) The subscription for membership of the Alumni Association shall be prescribed by the Ordinances.

(*3*) No member of the Alumni Association shall be entitled to vote or stand for election unless he has been a member of the Association for at least one year prior to the date of election and is a degree holder of the University of at least five years standing:

Provided that the condition relating to the completion of one year's membership shall not apply in the case of the first election.

Students' Council.

40. (*1*) There shall be constituted in the University, a Students' Council for every academic year, consisting of—

(*i*) the Dean of Students' Welfare who shall be the Chairman of the Students' Council;

(*ii*) twenty students to be nominated by the Academic Council on the basis of merit in studies, sports and extra-curricular activities; and

(*iii*) such number of elected representatives of students as may be specified by the Academic Council:

Provided that any student of the University shall have the right to bring up any matter concerning the University before the Students' Council if so permitted by the Chairman, and he shall have the right to participate in the discussions at any meeting when the matter is taken up for consideration.

(*2*) The functions of the Students' Council shall be to make suggestions to the appropriate authorities of the University in regard to the programmes of studies, students'

welfare and other matters of importance, in regard to the working of the University in general and such suggestions shall be made on the basis of consensus of opinion.

(*3*) The Students' Council shall meet at least once in an academic year preferably in the beginning of that year.

41. (*1*) The first Ordinances made under sub-section (*2*) of section 31 may be amended, repealed or added to at any time by the Executive Council in the manner specified in the following clauses. Ordinances, how made.

(*2*) No Ordinance in respect of the matters enumerated in sub-section (*1*) of section 31 shall be made by the Executive Council unless a draft of such Ordinance has been proposed by the Academic Council.

(*3*) The Executive Council shall not have power to amend any draft of any Ordinance proposed by the Academic Council under clause (*2*), but may reject the proposal or return the draft to the Academic Council for re-consideration, either in whole or in part, together with any amendment which the Executive Council may suggest.

(*4*) Where the Executive Council has rejected or returned the draft of an Ordinance proposed by the Academic Council, the Academic Council may consider the question afresh and in case the original draft is reaffirmed by a majority of not less than two-thirds of the members present and voting and more than half the total number of members of the Academic Council, the draft may be sent back to the Executive Council which shall either adopt it or refer it to the Visitor whose decision shall be final.

(*5*) Every Ordinance made by the Executive Council shall come into effect immediately.

(*6*) Every Ordinance made by the Executive Council shall be submitted to the Visitor within two weeks from the date of its adoption.

(*7*) The Visitor shall have the power to direct the University to suspend the operation of any Ordinance.

(*8*) The Visitor shall inform the Executive Council about his objection to the Ordinance referred to in clause (*7*) and may, after receiving the comments of the University, either withdraw the order suspending the Ordinance or disallow the Ordinance, and his decision shall be final.

42. (*1*) The authorities of the University may make Regulations consistent with the Act, the Statutes and the Ordinances for the following matters, namely:— Regulations.

(*i*) laying down the procedure to be observed at their meetings and the number of members required to form a quorum;

(*ii*) providing for all matters which are required by the Act, the Statutes or the Ordinances to be prescribed by Regulations;

(*iii*) providing for all other matters solely concerning such authorities or committees appointed by them and not provided for by the Act, the Statutes or the Ordinances.

(*2*) Every authority of the University shall make Regulations providing for the giving of notice to the members of such authority of the dates of meetings and of the business to be considered at meetings and for the keeping of a record of the proceedings of meetings.

(*3*) The Executive Council may direct the amendment in such manner as it may specify of any Regulation made under the Statutes or the annulment of any such Regulation.

Delegation of Powers.

43. Subject to the provisions of the Act and the Statutes, any officer or authority of the University may delegate his or its powers to any other officer or authority or person under his or its respective control and subject to the condition that overall responsibility for the exercise of the powers so delegated shall continue to vest in the officer or authority delegating such powers.

Sd/-

Dr. K. N. CHATURVEDI,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

H. D. VYAS,
Secretary to Government.

Government Central Press, Gandhinagar.

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Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART VI

Acts of Parliament and Ordinances Promoulgated by the President.

LEGISLATIVE & PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 17th November, 2007.

No. RPB/38-2007/Act-11--07/E:- The following Act of Parliament is republished for General information:-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 20th March, 2007, Phalguna, 29 -1928 (Saka)

The following Act of Parliament has received the assent of the President on the 19th March, 2007, is hereby published for general information:-

THE SPORTS BROADCASTING SIGNALS (MANDATORY SHARING WITH PRASAR BHARATI) ACT, 2007

AN ACT

(Act No. 11 of 2007) [19th March, 2007]

to provide access to the largest number of listeners and viewers, on a free to air basis, of sporting events of national importance through mandatory sharing of sports broadcasting signals with Prasar Bharati and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-eighth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title, extent and commencement.

1. (*1*) This Act may be called the Sports Broadcasting Signals (Mandatory Sharing with Prasar Bharati) Act, 2007.

(*2*) It extends to the whole of India.

(*3*) Save as otherwise provided, it shall be deemed to have come into force on the 11th day of November, 2005.

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Definitions.

2. (*1*) In this Act, unless the context otherwise requires,—

(*a*) "broadcaster" means any person who provides a content broadcasting service and includes a broadcasting network service provider when he manages and operates his own television or radio channel service;

(*b*) "broadcasting" means assembling and programming any form of communication content, like signs, signals, writing, pictures, images and sounds, and either placing it in the electronic form on electro-magnetic waves on specified frequencies and transmitting it through space or cables to make it continuously available on the carrier waves, or continuously streaming it in digital data form on the computer networks, so as to be accessible to single or multiple users through receiving devices either directly or indirectly; and all its grammatical variations and cognate expressions;

(*c*) "broadcasting service" means assembling, programming and placing communication content in electronic form on the electro-magnetic waves on specified frequencies and transmitting it continuously through broadcasting network or networks so as to enable all or any of the multiple users to access it by connecting their receiver devices to their respective broadcasting networks and includes the content broadcasting services and the broadcasting network services;

(*d*) "broadcasting networks service" means a service, which provides a network of infrastructure of cables or transmitting devices for carrying broadcasting content in electronic form on specified frequencies by means of guided or unguided electro-magnetic waves to multiple users, and includes the management and operation of any of the following:

(*i*) Teleport/Hub/Earth Station,

(*ii*) Direct-to-Home (DTH) Broadcasting Network,

(*iii*) Multi-system Cable Television Network,

(*iv*) Local Cable Television Network,

(*v*) Satellite Radio Broadcasting Network,

(*vi*) any other network service as may be prescribed by the Central Government;

(*e*) "cable television channel service" means the assembly, programming and transmission by cables of any broadcasting television content on a given set of frequencies to multiple subscribers;

(*f*) "cable television network" means any system consisting of closed transmission paths and associated signal generation, control and distribution equipment, designed to receive and re-transmit television channels or programmes for reception by multiple subscribers;

(*g*) "community radio service" means terrestrial radio broadcasting intended and restricted only to a specific community and within specified territory;

(*h*) "content" means any sound, text, data, picture (still or moving), other audio-visual representation, signal or intelligence of any nature or any combination thereof which is capable of being created, processed, stored, retrieved or communicated electronically;

(*i*) "content broadcasting service" means the assembling, programming and placing content in electronic form and transmitting or retransmitting the same on electro-magnetic waves on specified frequencies, on a broadcasting network so as to make it available for access by multiple users by connecting their receiving devices to the network, and includes the management and operation of any of the following:

(*i*) terrestrial television service,

(*ii*) terrestrial radio service,

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(iii) satellite television service,

(iv) satellite radio service,

(v) cable television channel service,

(vi) community radio service,

(vii) any other content broadcasting services as may be prescribed by the Central Government;

(j) "Direct-to-Home (DTH) broadcasting service" means a service for multi-channel distribution of programmes direct to a subscriber's premises without passing through an intermediary such as a cable operator by uplinking to a satellite system;

(k) "Guidelines" means the Guidelines issued under section 5;

(l) "multi-system cable television network" means a system for multi-channel downlinking and distribution of television programmes by a land-based transmission system using wired cable or wireless cable or a combination of both for simultaneous reception either by multiple subscribers directly or through one or more local cable operators;

(m) "Prasar Bharati" means the Corporation known as the Prasar Bharati (Broadcasting Corporation of India) established under sub-section (*1*) of section 3 of the Prasar Bharati (Broadcasting Corporation of India) Act, 1990; 25 of 1990.

(n) "prescribed" means prescribed by rules made under this Act;

(o) "satellite television service" means a television broadcasting service provided by using a satellite, and received with or without the help of a local delivery system but does not include Direct-to-Home delivery service;

(p) "satellite radio service" means a radio broadcasting service provided by using a satellite and directly receivable through receiver sets by multiple subscribers in India;

(q) "service provider" means provider of a broadcasting service;

(r) "specified" means specified under the Guidelines issued under section 5;

(s) "sporting events of national importance" means such national or international sporting events, held in India or abroad, as may be notified by the Central Government in the Official Gazette to be of national importance;

(t) "terrestrial television service" means a television broadcasting service provided over the air by using a land-based transmitter and directly received through receiver sets by the public;

(u) "terrestrial radio service" means a radio broadcasting service provided over the air by using a land-based transmitter and directly received through receiver sets by the public.

(*2*) Words and expressions used and not defined in this Act and defined in the Cable Television Networks (Regulation) Act, 1995, the Telecom Regulatory Authority of India Act, 1997, the Indian Telegraph Act, 1885, the Indian Wireless Telegraphy Act, 1933 shall have the meanings respectively assigned to them in those Acts. 7 of 1995. 24 of 1997. 13 of 1885. 17 of 1933.

CHAPTER II

MANDATORY SHARING OF SPORTS BROADCASTING SIGNALS WITH PRASAR BHARATI

Mandatory sharing of certain sports broadcasting signals.

3. (*1*) No content rights owner or holder and no television or radio broadcasting service provider shall carry a live television broadcast on any cable or Direct-to-Home network or radio commentary broadcast in India of sporting events of national importance, unless it simultaneously shares the live broadcasting signal, without its advertisements, with the Prasar Bharati to enable them to re-transmit the same on its terrestrial networks and Direct-to-Home networks in such manner and on such terms and conditions as may be specified.

(2) The terms and conditions under sub-section (1) shall also provide that the advertisement revenue sharing between the content rights owner or holder and the Prasar Bharati shall be in the ratio of not less than 75:25 in case of television coverage and 50:50 in case of radio coverage.

(3) The Central Government may specify a percentage of the revenue received by the Prasar Bharati under sub-section (2), which shall be utilised by the Prasar Bharati for broadcasting other sporting events.

Penalties.

4. The Central Government may specify penalties to be imposed, including suspension or revocation of licence, permission or registration, for violation of various terms and conditions as may be specified under section 3, subject to the condition that amount of a pecuniary penalty shall not exceed one crore rupees:

Provided that no penalty shall be imposed without giving a reasonable opportunity to the service provider:

Provided further that no act or omission on the part of any person after the 11th November, 2005 and before the date of promulgation of the Sports Broadcasting Signals (Mandatory Sharing with Prasar Bharati) Ordinance, 2007 shall be subjected to penalties. Ord. 4 of 2007.

CHAPTER III

POWERS OF THE CENTRAL GOVERNMENT TO ISSUE GUIDELINES

Power of the Central Government to issue Guidelines.

5. The Central Government shall take all such measures, as it deems fit or expedient, by way of issuing Guidelines for mandatory sharing of broadcasting signals with Prasar Bharati relating to sporting events of national importance:

Provided that the Guidelines issued before the promulgation of the Sports Broadcasting Signals (Mandatory Sharing with Prasar Bharati) Ordinance, 2007 shall be deemed to have been issued validly under the provisions of this section. Ord. 4 of 2007.

CHAPTER IV

MISCELLANEOUS

Validation.

6. (1) The provisions of the Guidelines issued by the Central Government for Downlinking of Television Channels on the 11th November, 2005 and for Uplinking from India on the 2nd December, 2005 for mandatory sharing of the sports broadcasting signals shall be deemed to be valid as if they have been issued under this Act.

(2) Notwithstanding anything contained in any judgement, decree or order of any court, tribunal or other authority, any action taken by the Central Government or the Prasar Bharati in pursuance of the Guidelines referred to in sub-section (1) shall be deemed to be and to have always been for all purposes in accordance with the law, as if the Guidelines had been validly in force at all material times and notwithstanding anything as aforesaid and without prejudice to the generality of the foregoing provisions, no legal proceeding shall be maintained or continued in any court for the enforcement of any direction given by any court or any decree or order which would not have been so given had the Guidelines been validly in force at all material times.

Power of the Central Government to make rules.

7. The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

Rules and Guidelines to be laid before Parliament.

8. Every rule and Guidelines made and issued, as the case may be, under this Act shall be laid, as soon as may be after it is made or issued, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or Guidelines, or both Houses agree that the rule or Guidelines

should not be made, the rule or Guidelines shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or Guidelines.

Saving.

9. The relevant provisions under the Guidelines for Downlinking of Television Channels issued on the 11th November, 2005 and the Guidelines for Uplinking from India issued on the 2nd December, 2005 for mandatory sharing of sports broadcasting signals with Prasar Bharati, shall continue to remain in force till fresh Guidelines are issued under this Act.

Repeal and saving.

Ord. 4 of 2007.

10. (*1*) The Sports Broadcasting Signals (Mandatory Sharing with Prasar Bharati) Ordinance, 2007 is hereby repealed.

Ord. 4 of 2007.

(*2*) Notwithstanding the repeal of the Sports Broadcasting Signals (Mandatory Sharing with Prasar Bharati) Ordinance, 2007, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.

Sd/-

DR. B. A. AGRAWAL,

Additional Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

H. D. VYAS

Secretary to Government.

Government Central Press, Gandhinagar.

Extra No. 24

REGISTERED No. G/GNR/2

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PART - VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE & PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 17th November, 2007.

No. RPB-43-2007/Act-16–07/E :- The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

(LEGISLATIVE DEPARTMENT)

New Delhi, the 28th March, 2007, Chaitra 7, 1929 (Saka)

The following Act of Parliament has received the assent of the President on the 26th March, 2007, is hereby published for general information :-

THE TAXATION LAWS (AMENDMENT) ACT, 2007

An Act

(Act No. 16 of 2007) [26th March, 2007]

further to amend the Central Sales Tax Act, 1956 and the Additional Duties of Excise (Goods of Special Importance) Act, 1957.

BE it enacted by Parliament in the Fifty-eighth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. *(1)* This Act may be called the Taxation Laws (Amendment) Act, 2007. Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

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CHAPTER II

CENTRAL SALES TAX

Amendment of section 6.

2. In the Central Sales Tax Act, 1956 (hereinafter in this Chapter referred to as the principal Act), in section 6, for sub-section *(2)*, the following sub-section shall be substituted, namely:— 74 of 1956.

"*(2)* Notwithstanding anything contained in sub-section *(1)* or sub-section *(1A)*, where a sale of any goods in the course of inter-State trade or commerce has either occasioned the movement of such goods from one State to another or has been effected by a transfer of documents of title to such goods during their movement from one State to another, any subsequent sale during such movement effected by a transfer of documents of title to such goods to a registered dealer, if the goods are of the description referred to in sub-section *(3)* of section 8, shall be exempt from tax under this Act:

Provided that no such subsequent sale shall be exempt from tax under this sub-section unless the dealer effecting the sale furnishes to the prescribed authority in the prescribed manner and within the prescribed time or within such further time as that authority may, for sufficient cause, permit,—

(*a*) a certificate duly filled and signed by the registered dealer from whom the goods were purchased containing the prescribed particulars in a prescribed form obtained from the prescribed authority; and

(*b*) if the subsequent sale is made to a registered dealer, a declaration referred to in sub-section (*4*) of section 8:

Provided further that it shall not be necessary to furnish the declaration referred to in clause (*b*) of the preceding proviso in respect of a subsequent sale of goods if,—

(a) the sale or purchase of such goods is, under the sales tax law of the appropriate State exempt from tax generally or is subject to tax generally at a rate which is lower than three per cent. or such reduced rate as may be notified by the Central Government, by notification in the Official Gazette, under sub-section (*1*) of section 8 (whether called a tax or fee or by any other name); and

(b) the dealer effecting such subsequent sale proves to the satisfaction of the authority referred to in the preceding proviso that such sale is of the nature referred to in this sub-section.".

Amendment of section 7.

3. In section 7 of the principal Act, in sub-section (*2A*), for the words, brackets, letter and figures "clause (*a*) of sub-section (*4*) of section 8", the words, brackets and figures "sub-section (*4*) of section 8" shall be substituted.

Amendment of section 8.

4. In section 8 of the principal Act,—

(*a*) for sub-sections (*1*) and (*2*), the following sub-sections shall be substituted, namely:—

"(*1*) Every dealer, who in the course of inter-State trade or commerce, sells to a registered dealer goods of the description referred to in sub-section (*3*), shall be liable to pay tax under this Act, which shall be three per cent. of his turnover or at the rate applicable to the sale or purchase of such goods inside the appropriate State under the sales tax law of that State, whichever is lower:

Provided that the Central Government may, by notification in the Official Gazette, reduce the rate of tax under this sub-section.

(2) The tax payable by any dealer on his turnover in so far as the turnover or any part thereof relates to the sale of goods in the course of inter-State trade or commerce not falling within sub-section *(1)*, shall be at the rate applicable to the sale or purchase of such goods inside the appropriate State under the sales tax law of that State.

Explanation.—For the purposes of this sub-section, a dealer shall be deemed to be a dealer liable to pay tax under the sales tax law of the appropriate State, notwithstanding that he, in fact, may not be so liable under that law.";

(b) in sub-section *(3)*, in the opening portion, for the words, brackets, figure and letter "The goods referred to in clause (*b*) of sub-section (*1*)", the following shall be substituted, namely:—

"The goods referred to in sub-section (*1*),—";

(*c*) for sub-section (*4*), the following shall be substituted, namely:—

"(*4*) The provisions of sub-section (*1*) shall not apply to any sale in the course of inter-State trade or commerce unless the dealer selling the goods furnishes to the prescribed authority in the prescribed manner a declaration duly filled and signed by the registered dealer to whom the goods are sold containing the prescribed particulars in a prescribed form obtained from the prescribed authority:

Provided that the declaration is furnished within the prescribed time or within such further time as that authority may, for sufficient cause, permit.";

(d) in sub-section (*5*), in clauses (*a*) and (*b*), the words "or the Government" and the words, brackets and figure "or sub-section (*2*)", wherever they occur, shall be omitted.

5. In section 9 of the principal Act, in sub-section (*1*), in the proviso, in clause *(a)*, for the words, letter, brackets and figures "clause *(a)* of sub-section *(4)* of section 8", the words, brackets and figures "sub-section *(4)* of section 8" shall be substituted. Amendment of section 9.

6. In section 10 of the principal Act, in clause *(a)*, the words "certificate or" shall be omitted. Amendment of section 10.

7. In section 10A of the principal Act, in sub-section *(2)*, in clause *(a)*, for the words, letter, brackets and figures "clause *(a)* of sub-section *(4)* of section 8", the words, brackets and figures "sub-section *(4)* of section 8" shall be substituted. Amendment of section 10A.

8. In section 14 of the principal Act, clause (*ix*) shall be omitted. Amendment of section 14.

CHAPTER III

ADDITIONAL DUTIES OF EXCISE

58 of 1957. **9.** In the Additional Duties of Excise (Goods of Special Importance) Act, 1957 (hereinafter referred to as the Additional Duties of Excise Act), section 4 shall be omitted. Omission of section 4.

Amendment of First Schedule.

10. In the Additional Duties of Excise Act, in the First Schedule, headings 2401, 2402 and 2403, and sub-headings and tariff items thereunder, and the entries relating thereto shall be omitted.

Omission of Second Schedule.

11. In the Additional Duties of Excise Act, the Second Schedule shall be omitted.

Sd/-

Dr. K. N. CHATURVEDI,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

H. D. VYAS,
Secretary to Government.

Government Central Press, Gandhinagar.

(b) for sub-section *(2A)*, the following sub-section shall be substituted, namely:—

"*(2A)* A scheduled bank, in addition to the average daily balance which it is, or may be, required to maintain under section 42 of the Reserve Bank of India Act, 1934 and every other banking company, in addition to the cash reserve which it is required to maintain under section 18, shall maintain in India, assets, the value of which shall not be less than such percentage not exceeding forty per cent. of the total of its demand and time liabilities in India as on the last Friday of the second preceding fortnight as the Reserve Bank may, by notification in the Official Gazette, specify from time to time and such assets shall be maintained, in such form and manner, as may be specified in such notification.";

2 of 1934.

(c) sub-section *(2B)* shall be omitted.

Amendment of section 53.

3. In section 53 of the principal Act,—

(i) in sub-section *(1)*, the words and figures "or any of their branches functioning or located in any Special Economic Zone established under the Special Economic Zones Act, 2005" shall be omitted;

28 of 2005.

(ii) in sub-section *(2)*, in the opening portion, for the words, brackets and figure "A copy of every notification proposed to be issued under sub-section *(1)*, shall be laid in draft before each House of Parliament", the following words, brackets and figures shall be substituted, namely:—

"A copy of every notification proposed to be issued under sub-section *(1)* relating to any banking company or institution or any class of banking companies or any branch of a banking company or an institution, as the case may be, functioning or located in any Special Economic Zone established under the Special Economic Zones Act, 2005 shall be laid in draft before each House of Parliament.".

28 of 2005.

Repeal and saving.

4. *(1)* The Banking Regulation (Amendment) Ordinance, 2007 is hereby repealed.

Ord. 1 of 2007.

(2) Notwithstanding the repeal of the Banking Regulation (Amendment) Ordinance, 2007, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of the principal Act, as amended by this Act.

Ord. 1 of 2007.

Sd/-

Dr. K. N. CHATURVEDI,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

H. D. VYAS,
Secretary to Government.

Government Central Press, Gandhinagar.

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PART - VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE & PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 17th November, 2007

No. RPB-44-2007/Act-17–07/E :- The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

(LEGISLATIVE DEPARTMENT)

New Delhi, the 28th March, 2007, Chaitra 7, 1929 (Saka)

The following Act of Parliament has received the assent of the President on the 26th March, 2007, is hereby published for general information :-

THE BANKING REGULATION (AMENDMENT) ACT, 2007

An Act

(Act No. 17 of 2007) [26th March, 2007]

further to amend the Banking Regulation Act, 1949.

BE it enacted by Parliament in the Fifty-eighth Year of the Republic of India as follows:—

1. *(1)* This Act may be called the Banking Regulation (Amendment) Act, 2007. Short title and commencement.

(2) It shall be deemed to have come into force on the 23rd day of January, 2007.

10 of 1949. **2.** In section 24 of the Banking Regulation Act, 1949 (hereinafter referred to as the principal Act),— Amendment of section 24.

(a) sub-sections *(1)* and *(2)* shall be omitted;

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PART - VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE & PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 17th November, 2007

No. RPB-45-2007/Act-18--07/E :- The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

(LEGISLATIVE DEPARTMENT)

New Delhi, the 4th April, 2007. Chaitra 14, 1929 (Saka)

The following Act of Parliament has received the assent of the President on the 3rd April, 2007. is hereby published for general information :-

THE NATIONAL TAX TRIBUNAL (AMENDMENT) ACT, 2007

An Act

(Act No. 18 of 2007) [3rd April, 2007]

to amend the National Tax Tribunal Act, 2005.

BE it enacted by Parliament in the Fifty-eighth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the National Tax Tribunal (Amendment) Act, 2007.

(*2*) It shall be deemed to have come into force on the 29th day of January, 2007.

Amendment of section 5.

49 of 2005.

2. In section 5 of the National Tax Tribunal Act, 2005 (hereinafter referred to as the principal Act), in sub-section (5),—

(*i*) the words "in consultation with the Chairperson" shall be omitted;

(*ii*) the following proviso shall be inserted, namely:—

"Provided that no Member shall be transferred without the concurrence of the Chairperson.".

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Amendment of section 6.

3. In section 6 of the principal Act, in sub-section (*2*), in clause (*b*), for the words "seven years", the words "five years" shall be substituted.

Amendment of section 13.

4. In section 13 of the principal Act, in sub-section (*1*), the words "or any person duly authorised by him or it" shall be omitted.

Repeal and saving.

5. (*1*) The National Tax Tribunal (Amendment) Ordinance, 2007 is hereby repealed. Ord. 3 of 2007.

(*2*) Notwithstanding the repeal of the National Tax Tribunal (Amendment) Ordinance, 2007, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of the principal Act, as amended by this Act. Ord. 3 of 2007.

Sd/-

Dr. K. N. CHATURVEDI,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

H. D. VYAS,
Secretary to Government.

Government Central Press, Gandhinagar.

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PART - VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE & PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 17th November, 2007

No. RPB-46-2007/Act-19--07/E :- The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

(LEGISLATIVE DEPARTMENT)

New Delhi, the 4th April, 2007, Chaitra 14, 1929 (Saka)

The following Act of Parliament has received the assent of the President on the 3rd April, 2007, is hereby published for general information :-

THE NATIONAL INSTITUTE OF PHARMACEUTICAL EDUCATION AND RESEARCH (AMENDMENT) ACT, 2007

An Act

(Act No. 19 of 2007) [3rd April, 2007]

further to amend the National Institute of Pharmaceutical Education and Research Act, 1998.

BE it enacted by Parliament in the Fifty-eighth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the National Institute of Pharmaceutical Education and Research (Amendment) Act, 2007.

(*2*) It shall be deemed to have come into force on the 29th day of January, 2007.

Amendment of section 3.

13 of 1998.

2. In the National Institute of Pharmaceutical Education and Research Act, 1998 (hereinafter referred to as the principal Act), in section 3, for clause (*g*), the following clause shall be substituted, namely:—

'(*g*) "Institute" means a National Institute of Pharmaceutical Education and Research established under sub-section (*1*) or sub-section (*2A*) of section 4;'.

INDEX

Amendment of section 4.

3. In the principal Act, in section 4,—

(*i*) after sub-section (*2*), the following sub-section shall be inserted, namely:—

"(*2A*) The Central Government may, by notification in the Official Gazette, establish similar Institutes in different parts of the country.";

(*ii*) in sub-section (*3*),—

(*A*) for clause (*d*), the following clause shall be substituted, namely:—

"(*d*) the Secretary, Technical Education, Government of the State within which the Institute is situated, *ex officio*;";

(*B*) after clause (*j*), the following clause shall be inserted, namely:—

"(*ja*) a representative of the Pharmacy Council of India;".

Insertion of new section 4A.

4. In the principal Act, after section 4, the following section shall be inserted, namely:—

Centres of Institute.

"4A. An Institute, with the prior approval of the Central Government, may, by notification in the Official Gazette, establish one or more centres in different locations within its jurisdiction.".

Repeal and saving.

5. (*1*) The National Institute of Pharmaceutical Education and Research (Amendment) Ordinance, 2007 is hereby repealed. Ord. 2 of 2007.

(*2*) Notwithstanding the repeal of the National Institute of Pharmaceutical Education and Research (Amendment) Ordinance, 2007, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of the principal Act, as amended by this Act. Ord. 2 of 2007.

Sd/-

Dr. K. N. CHATURVEDI,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

H. D. VYAS,
Secretary to Government.

Government Central Press, Gandhinagar.

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PART VI

Acts of Parliament and Ordinances Promulgated by the President.

LEGISLATIVE & PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar 17th November, 2007.

No. RPB/49-2007/Act-22--07/E:- The following Act of Parliament is republished for General information:-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

(Lsegislative Department)

New Delhi, the 12th May, 2007, Vaisakha, 22-1929 (Saka)

The following Act of Parliament has received the assent of the President on the 11th May, 2007, is hereby published for general information:-

THE FINANCE ACT, 2007

AN ACT

(Act No. 22 of 2007) [11th May, 2007]

to give effect to the financial proposals of the Central Government for the financial year 2007-2008.

BE it enacted by Parliament in the Fifty-eighth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (*1*) This Act may be called the Finance Act, 2007. Short title and commencement.

(*2*) Save as otherwise provided in this Act, sections 2 to 93 shall be deemed to have come into force on the 1st day of April, 2007.

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CHAPTER II

RATES OF INCOME-TAX

Income-tax.

2. (*1*) Subject to the provisions of sub-sections (*2*) and (*3*), for the assessment year commencing on the 1st day of April, 2007, income-tax shall be charged at the rates specified in Part I of the First Schedule and such tax as reduced by the rebate of income-tax calculated under Chapter VIII-A of the Income-tax Act, 1961 (hereinafter referred to as the Income-tax Act) shall be increased by a surcharge for purposes of the Union calculated in each case in the manner provided therein. 43 of 1961.

(*2*) In the cases to which Paragraph A of Part I of the First Schedule applies, where the assessee has, in the previous year, any net agricultural income exceeding five thousand rupees, in addition to total income, and the total income exceeds one lakh rupees, then,—

(*a*) the net agricultural income shall be taken into account, in the manner provided in clause (*b*) [that is to say, as if the net agricultural income were comprised in the total income after the first one lakh rupees of the total income but without being liable to tax], only for the purpose of charging income-tax in respect of the total income; and

(*b*) the income-tax chargeable shall be calculated as follows:—

(*i*) the total income and the net agricultural income shall be aggregated and the amount of income-tax shall be determined in respect of the aggregate income at the rates specified in the said Paragraph A, as if such aggregate income were the total income;

(*ii*) the net agricultural income shall be increased by a sum of one lakh rupees, and the amount of income-tax shall be determined in respect of the net agricultural income as so increased at the rates specified in the said Paragraph A, as if the net agricultural income as so increased were the total income;

(*iii*) the amount of income-tax determined in accordance with sub-clause (*i*) shall be reduced by the amount of income-tax determined in accordance with sub-clause (*ii*) and the sum so arrived at shall be the income-tax in respect of the total income:

Provided that in the case of every woman, resident in India and below the age of sixty-five years at any time during the previous year, referred to in item (*II*) of Paragraph A of Part I of the First Schedule, the provisions of this sub-section shall have effect as if for the words "one lakh rupees", the words "one lakh thirty-five thousand rupees" had been substituted:

Provided further that in the case of every individual, being a resident in India, who is of the age of sixty-five years or more at any time during the previous year, referred to in item (*III*) of Paragraph A of Part I of the First Schedule, the provisions of this sub-section shall have effect as if for the words "one lakh rupees", the words "one lakh eighty-five thousand rupees" had been substituted:

Provided also that the amount of income-tax so arrived at, as reduced by the amount of rebate of income-tax calculated under Chapter VIII-A of the Income-tax Act, shall be increased by a surcharge for purposes of the Union calculated in each case in the manner provided in that Paragraph and the sum so arrived at shall be the income-tax in respect of the total income.

(*3*) In cases to which the provisions of Chapter XII or Chapter XII-A or Chapter XII-H or section 115JB or sub-section (*1A*) of section 161 or section 164 or section 164A or section 167B of the Income- tax Act apply, the tax chargeable shall be determined as provided in that Chapter or that section, and with reference to the rates imposed by sub-section (*1*) or the rates as specified in that Chapter or section, as the case may be:

Provided that the amount of income-tax computed in accordance with the provisions of section 111A or section 112 shall be increased by a surcharge for purposes of the Union as provided in Paragraph A, B, C, D or E, as the case may be, of Part I of the First Schedule:

Provided further that in respect of any income chargeable to tax under sections 115A, 115AB, 115AC, 115ACA, 115AD, 115B, 115BB, 115BBA, 115BBC, 115E and 115JB or fringe benefits chargeable to tax under section 115WA of the Income-tax Act, the amount of income-tax computed under this sub-section shall be increased by a surcharge for purposes of the Union, calculated,—

(*a*) in the case of every individual, Hindu undivided family, association of persons and body of individuals, whether incorporated or not, at the rate of ten per cent. of such income-tax where the total income or fringe benefits, as the case may be, exceeds ten lakh rupees;

(*b*) in the case of every firm, artificial juridical person referred to in sub-clause (*vii*) of clause (*31*) of section 2 of the Income-tax Act, and domestic company at the rate of ten per cent. of such income-tax;

(*c*) in the case of every company, other than a domestic company, at the rate of two and one-half per cent. of such income-tax.

(*4*) In cases in which tax has to be charged and paid under section 115-O or sub-section (*2*) of section 115R of the Income-tax Act, the tax shall be charged and paid at the rate as specified in those sections and shall be increased by a surcharge for purposes of the Union, calculated at the rate of ten per cent. of such tax.

(*5*) In cases in which tax has to be deducted under sections 193, 194, 194A, 194B, 194BB, 194D and 195 of the Income-tax Act, at the rates in force, the deductions shall be made at the rates specified in Part II of the First Schedule and shall be increased, by a surcharge for purposes of the Union, calculated in each case, in the manner provided therein.

(*6*) In cases in which tax has to be deducted under sections 194C, 194E, 194EE, 194F, 194G, 194H, 194-I, 194J, 194LA, 196B, 196C and 196D of the Income-tax Act, the deductions shall be made at the rates specified in those sections and shall be increased by a surcharge for purposes of the Union, calculated,—

(*a*) in the case of every individual, Hindu undivided family, association of persons and body of individuals, whether incorporated or not, at the rate of ten per cent. of such tax where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds ten lakh rupees;

(*b*) in the case of every artificial juridical person referred to in sub-clause (*vii*) of clause (*31*) of section 2 of the Income-tax Act, at the rate of ten per cent. of such tax;

(*c*) in the case of every firm and domestic company, at the rate of ten per cent. of such tax where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds one crore rupees;

(*d*) in the case of every company, other than a domestic company, at the rate of two and one-half per cent. of such tax where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds one crore rupees.

(*7*) In cases in which tax has to be collected under the proviso to section 194B of the Income-tax Act, the collection shall be made at the rates specified in Part II of the First Schedule, and shall be increased, by a surcharge for purposes of the Union, calculated in the manner provided therein.

(*8*) In cases in which tax has to be collected under section 206C of the Income-tax Act, the collection shall be made at the rates specified in that section and shall be increased by a surcharge for purposes of the Union, calculated,—

(*a*) in the case of every individual, Hindu undivided family, association of persons and body of individuals, whether incorporated or not, at the rate of ten per cent. of such tax where the amount or the aggregate of such amounts collected, and subject to the collection, exceeds ten lakh rupees;

(*b*) in the case of every artificial juridical person referred to in sub-clause (*vii*) of clause (*31*) of section 2 of the Income-tax Act, at the rate of ten per cent. of such tax;

(*c*) in the case of every firm and domestic company at the rate of ten per cent. of such tax where the amount or the aggregate of such amounts collected, and subject to the collection, exceeds one crore rupees;

(*d*) in the case of every company, other than a domestic company, at the rate of two and one-half per cent. of such tax where the amount or the aggregate of such amounts collected, and subject to the collection, exceeds one crore rupees.

(*9*) Subject to the provisions of sub-section (*10*), in cases in which income-tax has to be charged under sub-section (*4*) of section 172 or sub-section (*2*) of section 174 or section 174A or section 175 or sub-section (*2*) of section 176 of the Income-tax Act or deducted from, or paid on, income chargeable under the head "Salaries" under section 192 of the said Act or in which the "advance tax" payable under Chapter XVII-C of the said Act has to be computed at the rate or rates in force, such income-tax or, as the case may be, "advance tax" shall be so charged, deducted or computed at the rate or rates specified in Part III of the First Schedule and such tax as reduced by the rebate of income-tax calculated under Chapter VIII-A of the said Act shall be increased by a surcharge for purposes of the Union, calculated in each case in the manner provided therein:

Provided that in cases to which the provisions of Chapter XII or Chapter XII-A or Chapter XII-H or section 115JB or sub-section (*1A*) of section 161 or section 164 or section 164A or section 167B of the Income-tax Act apply, "advance tax" shall be computed with reference to the rates imposed by this sub-section or the rates as specified in that Chapter or section, as the case may be:

Provided further that the amount of "advance tax" computed in accordance with the provisions of section 111A or section 112 of the Income-tax Act shall be increased by a surcharge for purposes of the Union as provided in Paragraph A, B, C, D or E, as the case may be, of Part III of the First Schedule:

Provided also that in respect of any income chargeable to tax under sections 115A, 115AB, 115AC, 115ACA, 115AD, 115B, 115BB, 115BBA, 115BBC, 115E and 115JB of the Income-tax Act, "advance tax" computed under the first proviso shall be increased by a surcharge for purposes of the Union, calculated,—

(*a*) in the case of every individual, Hindu undivided family, association of persons and body of individuals, whether incorporated or not, at the rate of ten per cent. of "advance tax" where the total income exceeds ten lakh rupees;

(*b*) in the case of every artificial juridical person referred to in sub-clause (*vii*) of clause (*31*) of section 2 of the Income-tax Act, at the rate of ten per cent. of such "advance tax";

(*c*) in the case of every firm and domestic company, at the rate of ten per cent. of such "advance tax" where the total income exceeds one crore rupees;

(*d*) in the case of every company, other than a domestic company, at the rate of two and one-half per cent. of such "advance tax" where the total income exceeds one crore rupees:

Provided also that in the case of every company having total income chargeable to tax under section 115JB of the Income-tax Act, and such income exceeds one crore rupees, the total amount payable as "advance tax" and surcharge on such income shall not exceed the

total amount payable as "advance tax" on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees:

Provided also that in respect of any fringe benefits chargeable to tax under section 115WA of the Income-tax Act, "advance tax" computed under the first proviso shall be increased by a surcharge for purposes of the Union, calculated,—

(*a*) in the case of every association of persons and body of individuals, whether incorporated or not, at the rate of ten per cent. of "advance tax" where the fringe benefits exceed ten lakh rupees;

(*b*) in the case of every firm, artificial juridical person referred to in sub-clause (*v*) of clause (*a*) of section 115W of the Income-tax Act, and domestic company, at the rate of ten per cent. of such "advance tax";

(*c*) in the case of every company, other than a domestic company, at the rate of two and one-half per cent. of such "advance tax".

(*10*) In cases to which Paragraph A of Part III of the First Schedule applies, where the assessee has, in the previous year or, if by virtue of any provision of the Income-tax Act, income-tax is to be charged in respect of the income of a period other than the previous year, in such other period, any net agricultural income exceeding five thousand rupees, in addition to total income and the total income exceeds one lakh ten thousand rupees, then, in charging income-tax under sub-section (*2*) of section 174 or section 174A or section 175 or sub-section (*2*) of section 176 of the said Act or in computing the "advance tax" payable under Chapter XVII-C of the said Act, at the rate or rates in force,—

(*a*) the net agricultural income shall be taken into account, in the manner provided in clause (*b*) [that is to say, as if the net agricultural income were comprised in the total income after the first one lakh ten thousand rupees of the total income but without being liable to tax], only for the purpose of charging or computing such income-tax or, as the case may be, "advance tax" in respect of the total income; and

(*b*) such income-tax or, as the case may be, "advance tax" shall be so charged or computed as follows:—

(*i*) the total income and the net agricultural income shall be aggregated and the amount of income-tax or "advance tax" shall be determined in respect of the aggregate income at the rates specified in the said Paragraph A, as if such aggregate income were the total income;

(*ii*) the net agricultural income shall be increased by a sum of one lakh ten thousand rupees, and the amount of income-tax or "advance tax" shall be determined in respect of the net agricultural income as so increased at the rates specified in the said Paragraph A, as if the net agricultural income were the total income;

(*iii*) the amount of income-tax or "advance tax" determined in accordance with sub-clause (*i*) shall be reduced by the amount of income-tax or, as the case may be, "advance tax" determined in accordance with sub-clause (*ii*) and the sum so arrived at shall be the income-tax or, as the case may be, "advance tax" in respect of the total income:

Provided that in the case of every woman, resident in India and below the age of sixty-five years at any time during the previous year, referred to in item (*II*) of Paragraph A of Part III of the First Schedule, the provisions of this sub-section shall have effect as if for the words "one lakh ten thousand rupees", the words "one lakh forty-five thousand rupees" had been substituted:

Provided further that in the case of every individual, being a resident in India, who is of the age of sixty-five years or more at any time during the previous year, referred to in item

(*III*) of Paragraph A of Part III of the First Schedule, the provisions of this sub-section shall have effect as if for the words "one lakh ten thousand rupees", the words "one lakh ninety-five thousand rupees" had been substituted:

Provided also that the amount of income-tax or "advance tax" so arrived at, as reduced by the rebate of income-tax calculated under Chapter VIII-A of the said Act, shall be increased by a surcharge for purposes of the Union calculated in each case, in the manner provided therein.

(*11*) The amount of income-tax as specified in sub-sections (*1*) to (*10*) and as increased by a surcharge for purposes of the Union calculated in the manner provided therein, shall be further increased by an additional surcharge for purposes of the Union, to be called the "Education Cess on income-tax", calculated at the rate of two per cent. of such income-tax and surcharge, so as to fulfil the commitment of the Government to provide and finance universalised quality basic education.

(*12*) The amount of income-tax as specified in sub-sections (*4*) to (*10*) and as increased by a surcharge for purposes of the Union calculated in the manner provided therein, shall be also increased by an additional surcharge for purposes of the Union, to be called the "Secondary and Higher Education Cess on income-tax", calculated at the rate of one per cent. of such income-tax and surcharge, so as to fulfil the commitment of the Government to provide and finance secondary and higher education.

(*13*) For the purposes of this section and the First Schedule,—

(*a*) "domestic company" means an Indian company or any other company which, in respect of its income liable to income-tax under the Income-tax Act for the assessment year commencing on the 1st day of April, 2007, has made the prescribed arrangements for the declaration and payment within India of the dividends (including dividends on preference shares) payable out of such income;

(*b*) "insurance commission" means any remuneration or reward, whether by way of commission or otherwise, for soliciting or procuring insurance business (including business relating to the continuance, renewal or revival of policies of insurance);

(*c*) "net agricultural income", in relation to a person, means the total amount of agricultural income, from whatever source derived, of that person computed in accordance with the rules contained in Part IV of the First Schedule;

(*d*) all other words and expressions used in this section and the First Schedule but not defined in this sub-section and defined in the Income-tax Act shall have the meanings respectively assigned to them in that Act.

CHAPTER III

DIRECT TAXES

Income-tax

Amendment of section 2.

3. In section 2 of the Income-tax Act,—

(*a*) after clause (*1B*), the following clauses shall be inserted and shall be deemed to have been inserted with effect from the 1st day of June, 1994, namely:—

'(*1C*) "Additional Commissioner" means a person appointed to be an Additional Commissioner of Income-tax under sub-section (*1*) of section 117;

(*1D*) "Additional Director" means a person appointed to be an Additional Director of Income-tax under sub-section (*1*) of section 117;';

(*b*) in clause (*7A*),—

(*i*) after the words "any other provision of this Act, and the", the words "Additional Commissioner or" shall be inserted and shall be deemed to have

been inserted with effect from the 1st day of June, 1994;

(*ii*) after the words "Additional Commissioner or", as so inserted, the words "Additional Director or," shall be inserted and shall be deemed to have been inserted with effect from the 1st day of October, 1996;

(*c*) after clause (*9A*), the following clause shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1988, namely:—

'(*9B*) "Assistant Director" means a person appointed to be an Assistant Director of Income-tax under sub-section (*1*) of section 117;';

(*d*) in clause (*14*), for sub-clause (*ii*), the following shall be substituted with effect from the 1st day of April, 2008, namely:—

'(*ii*) personal effects, that is to say, movable property (including wearing apparel and furniture) held for personal use by the assessee or any member of his family dependent on him, but excludes—

(*a*) jewellery;

(*b*) archaeological collections;

(*c*) drawings;

(*d*) paintings;

(*e*) sculptures; or

(*f*) any work of art.

Explanation.—For the purposes of this sub-clause, "jewellery" includes—

(*a*) ornaments made of gold, silver, platinum or any other precious metal or any alloy containing one or more of such precious metals, whether or not containing any precious or semi-precious stone, and whether or not worked or sewn into any wearing apparel;

(*b*) precious or semi-precious stones, whether or not set in any furniture, utensil or other article or worked or sewn into any wearing apparel;';

(*e*) in clause (*24*), after sub-clause (*xiii*), the following sub-clause shall be inserted, namely:—

"(*xiv*) any sum referred to in clause (*vi*) of sub-section (*2*) of section 56;";

(*f*) for clause (*25A*), the following clause shall be substituted and shall be deemed to have been substituted with effect from the 25th day of August, 1976, namely:—

'(*25A*) "India" means the territory of India as referred to in article 1 of the Constitution, its territorial waters, seabed and subsoil underlying such waters, continental shelf, exclusive economic zone or any other maritime zone as referred to in the Territorial Waters, Continental Shelf, Exclusive Economic Zone and Other Maritime Zones Act, 1976, and the air space above its territory and territorial waters;';

80 of 1976.

(*g*) in clause (*42A*), with effect from the 1st day of April, 2008,—

(*i*) in *Explanation* 1, in clause (*i*), after sub-clause (*ha*), insert—

"(*hb*) in the case of a capital asset, being any specified security or sweat equity shares allotted or transferred, directly or indirectly, by the employer free of cost or at concessional rate to his employees (including former employee or employees), the period shall be reckoned from the date of allotment or transfer of such specified security or sweat equity shares;";

(*ii*) after *Explanation* 2, insert—

'*Explanation* 3.—For the purposes of this clause, the expressions "specified security" and "sweat equity shares" shall have the meanings respectively assigned to them in the *Explanation* to clause (*d*) of sub-section (*1*) of section 115WB;'.

Amendment of section 7.

4. In section 7 of the Income-tax Act, in clause (*iii*), for the words "Central Government", the words "Central Government or any other employer" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 2004.

Amendment of section 9.

5. In section 9 of the Income-tax Act, after sub-section (*2*), the following *Explanation* shall be inserted and shall be deemed to have been inserted with effect from the 1st day of June, 1976, namely:—

"*Explanation*.—For the removal of doubts, it is hereby declared that for the purposes of this section, where income is deemed to accrue or arise in India under clauses (*v*), (*vi*) and (*vii*) of sub-section (*1*), such income shall be included in the total income of the non-resident, whether or not the non-resident has a residence or place of business or business connection in India.".

Amendment of section 10.

6. In section 10 of the Income-tax Act,—

(*a*) after clause (*10BB*), the following shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 2005, namely:—

'(*10BC*) any amount received or receivable from the Central Government or a State Government or a local authority by an individual or his legal heir by way of compensation on account of any disaster, except the amount received or receivable to the extent such individual or his legal heir has been allowed a deduction under this Act on account of any loss or damage caused by such disaster.

Explanation.—For the purposes of this clause, the expression "disaster" shall have the meaning assigned to it under clause (*d*) of section 2 of the Disaster Management Act, 2005;'; 53 of 2005.

(*b*) in clause (*15*),—

(*A*) in sub-clause (*iv*), in item (*fa*), for the *Explanation*, the following *Explanation* shall be substituted, namely:—

'*Explanation*.—For the purposes of this item, the expression "scheduled bank" means the State Bank of India constituted under the State Bank of India Act, 1955, a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959, a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, or under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980, or any other bank being a bank included in the Second Schedule to the Reserve Bank of India Act, 1934, but does not include a co-operative bank;'; 23 of 1955. 38 of 1959. 5 of 1970. 40 of 1980. 2 of 1934.

(*B*) for sub-clause (*vii*), the following shall be substituted with effect from the 1st day of April, 2008, namely:—

'(*vii*) interest on bonds—

(*a*) issued by a local authority or by a State Pooled Finance Entity; and

(*b*) specified by the Central Government by notification in the Official Gazette.

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Explanation.—For the purposes of this sub-clause, the expression "State Pooled Finance Entity" shall mean such entity which is set up in accordance with the guidelines for the Pooled Finance Development Scheme notified by the Central Government in the Ministry of Urban Development;';

(*c*) in clause (*23BBD*), for the words, figures and letters "seven previous years relevant to the assessment years beginning on the 1st day of April, 2001 and ending on the 31st day of March, 2008", the words, figures and letters "ten previous years relevant to the assessment years beginning on the 1st day of April, 2001 and ending on the 31st day of March, 2011" shall be substituted with effect from the 1st day of April, 2008;

(*d*) after clause (*23BBF*), the following clause shall be inserted with effect from the 1st day of April, 2008, namely:—

"(*23BBG*) any income of the Central Electricity Regulatory Commission constituted under sub-section (*1*) of section 76 of the Electricity Act, 2003;";

36 of 2003.

(*e*) in clause (*23C*), with effect from the 1st day of June, 2007,—

(*A*) in sub-clause (*iv*), for the words "which may be notified by the Central Government in the Official Gazette", the words "which may be approved by the prescribed authority" shall be substituted;

(*B*) in sub-clause (*v*), for the words "which may be notified by the Central Government in the Official Gazette", the words "which may be approved by the prescribed authority" shall be substituted;

(*C*) for the second proviso, the following proviso shall be substituted, namely:—

"Provided further that the prescribed authority, before approving any fund or trust or institution or any university or other educational institution or any hospital or other medical institution, under sub-clause (*iv*) or sub-clause (*v*) or sub-clause (*vi*) or sub-clause (*via*), may call for such documents (including audited annual accounts) or information from the fund or trust or institution or any university or other educational institution or any hospital or other medical institution, as the case may be, as it thinks necessary in order to satisfy itself about the genuineness of the activities of such fund or trust or institution or any university or other educational institution or any hospital or other medical institution, as the case may be, and the prescribed authority may also make such inquiries as it deems necessary in this behalf:";

(*D*) in the ninth proviso, for the words, brackets, figures and letter "every notification under sub-clause (*iv*) or sub-clause (*v*) shall be issued or approval under sub-clause (*vi*) or sub-clause (*via*)", the words, brackets, figures and letter "every notification under sub-clause (*iv*) or sub-clause (*v*) shall be issued or approval under sub-clause (*iv*) or sub-clause (*v*) or sub-clause (*vi*) or sub-clause (*via*)" shall be substituted;

(*E*) in the thirteenth proviso, after the words "Central Government", the words "or is approved by the prescribed authority, as the case may be," shall be inserted;

(*F*) after the fifteenth proviso, the following proviso shall be inserted, namely:—

"Provided also that all pending applications, on which no notification has been issued under sub-clause (*iv*) or sub-clause (*v*)

before the 1st day of June, 2007, shall stand transferred on that day to the prescribed authority and the prescribed authority may proceed with such applications under those sub-clauses from the stage at which they were on that day;";

(*f*) after clause (*23EB*), the following shall be inserted with effect from the 1st day of April, 2008, namely:—

'(*23EC*) any income, by way of contributions received from commodity exchanges and the members thereof, of such Investor Protection Fund set up by commodity exchanges in India, either jointly or separately, as the Central Government may, by notification in the Official Gazette, specify in this behalf:

Provided that where any amount standing to the credit of the said Fund and not charged to income-tax during any previous year is shared, either wholly or in part, with a commodity exchange, the whole of the amount so shared shall be deemed to be the income of the previous year in which such amount is so shared and shall accordingly be chargeable to income-tax.

Explanation.—For the purposes of this clause, "commodity exchange" shall mean a "registered association" as defined in clause (*jj*) of section 2 of the Forward Contracts (Regulation) Act, 1952;'; 74 of 1952.

(*g*) in clause (*23FB*), with effect from the 1st day of April, 2008,—

(*i*) for the words "set up to raise funds for investment", the words "from investment" shall be substituted;

(*ii*) in *Explanation 1*, for clause (*c*), the following clause shall be substituted, namely:—

'(*c*) "venture capital undertaking" means such domestic company whose shares are not listed in a recognised stock exchange in India and which is engaged in the—

(*i*) business of—

(*A*) nanotechnology;

(*B*) information technology relating to hardware and software development;

(*C*) seed research and development;

(*D*) bio-technology;

(*E*) research and development of new chemical entities in the pharmaceutical sector;

(*F*) production of bio-fuels;

(*G*) building and operating composite hotel-cum-convention centre with seating capacity of more than three thousand; or

(*H*) developing or operating and maintaining or developing, operating and maintaining any infrastructure facility as defined in the *Explanation* to clause (*i*) of sub-section (*4*) of section 80-IA; or

(*ii*) dairy or poultry industry;'.

7. In section 10AA of the Income-tax Act, for sub-section (*4*), the following sub-section shall be substituted and shall be deemed to have been substituted with effect from the 10th day of February, 2006, namely:— Amendment of section 10AA.

"(*4*) This section applies to any undertaking, being the Unit, which fulfils all the following conditions, namely:—

(*i*) it has begun or begins to manufacture or produce articles or things or provide services during the previous year relevant to the assessment year commencing on or after the 1st day of April, 2006 in any Special Economic Zone;

(*ii*) it is not formed by the splitting up, or the reconstruction, of a business already in existence:

Provided that this condition shall not apply in respect of any undertaking, being the Unit, which is formed as a result of the re-establishment, reconstruction or revival by the assessee of the business of any such undertaking as is referred to in section 33B, in the circumstances and within the period specified in that section;

(*iii*) it is not formed by the transfer to a new business, of machinery or plant previously used for any purpose.

Explanation.—The provisions of *Explanations 1* and *2* to sub-section (*3*) of section 80-IA shall apply for the purposes of clause (*iii*) of this sub-section as they apply for the purposes of clause (*ii*) of that sub-section.".

8. In section 12A of the Income-tax Act, with effect from the 1st day of June, 2007,— Amendment of section 12A.

(*a*) for the marginal heading, the following marginal heading shall be substituted, namely:—

"Conditions for applicability of sections 11 and 12.";

(*b*) the existing section 12A shall be renumbered as sub-section (*1*) thereof, and in sub-section (*1*) as so renumbered,—

(*i*) in clause (*a*), after the proviso, the following proviso shall be inserted, namely:—

"Provided further that the provisions of this clause shall not apply in relation to any application made on or after the 1st day of June, 2007;";

(*ii*) after clause (*a*), the following clause shall be inserted, namely:—

"(*aa*) the person in receipt of the income has made an application for registration of the trust or institution on or after the 1st day of June, 2007 in the prescribed form and manner to the Commissioner and such trust or institution is registered under section 12AA;";

(*c*) after sub-section (*1*) as so renumbered, the following sub-section shall be inserted, namely:—

"(*2*) Where an application has been made on or after the 1st day of June, 2007, the provisions of sections 11 and 12 shall apply in relation to the income of such trust or institution from the assessment year immediately following the financial year in which such application is made.".

9. In section 12AA of the Income-tax Act, with effect from the 1st day of June, 2007,— Amendment of section 12AA.

(*a*) in sub-section (*1*), after the word, brackets and letter "clause (*a*)", the words, brackets, letters and figure "or clause (*aa*) of sub-section (*1*)" shall be inserted;

(*b*) in sub-section (*2*), after the word, brackets and letter "clause (*a*)", the words, brackets, letters and figure "or clause (*aa*) of sub-section (*1*)" shall be inserted.

Amendment of section 13.

10. In section 13 of the Income-tax Act, in sub-section (*1*), in clause (*d*), for sub-clause (*iii*), the following sub-clause shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1999, namely:—

"(*iii*) any shares in a company, other than—

(*A*) shares in a public sector company;

(*B*) shares prescribed as a form or mode of investment under clause (*xii*) of sub-section (*5*) of section 11,

are held by the trust or institution after the 30th day of November, 1983:".

Amendment of section 17.

11. In section 17 of the Income-tax Act,—

(*a*) in clause (*1*), in sub-clause (*viii*), for the words "Central Government", the words "Central Government or any other employer" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 2004;

(*b*) in clause (*2*),—

(*A*) after sub-clause (*ii*),—

(*i*) the following *Explanations* shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 2002, namely:—

'*Explanation 1*.—For the purposes of this sub-clause, concession in the matter of rent shall be deemed to have been provided if,—

(*a*) in a case where an unfurnished accommodation is provided by any employer other than the Central Government or any State Government and—

(*i*) the accommodation is owned by the employer, the value of the accommodation determined at the rate of ten per cent. of salary in cities having population exceeding four lakhs as per 1991 census and seven and one-half per cent. of salary in other cities, in respect of the period during which the said accommodation was occupied by the assessee during the previous year, exceeds the rent recoverable from, or payable by, the assessee;

(*ii*) the accommodation is taken on lease or rent by the employer, the value of the accommodation being the actual amount of lease rental paid or payable by the employer or ten per cent. of salary, whichever is lower, in respect of the period during which the said accommodation was occupied by the assessee during the previous year, exceeds the rent recoverable from, or payable by, the assessee;

(*b*) in a case where a furnished accommodation is provided by the Central Government or any State Government, the licence fee determined by the Central Government or any State Government in respect of the accommodation in accordance with the rules framed by such Government as increased by the value of furniture and fixtures in respect of the period during which the said accommodation was occupied by the assessee during the previous year, exceeds the aggregate of the rent recoverable from, or payable by, the assessee and any charges paid or payable for the furniture and fixtures by the assessee;

(*c*) in a case where a furnished accommodation is provided by an employer other than the Central Government or any State Government and—

(*i*) the accommodation is owned by the employer, the value of the accommodation determined under sub-clause (*i*) of clause (*a*) as increased by the value of the furniture and fixtures in respect of the period during which the said accommodation was occupied by the assessee during the previous year, exceeds the rent recoverable from, or payable by, the assessee;

(*ii*) the accommodation is taken on lease or rent by the employer, the value of the accommodation determined under sub-clause (*ii*) of clause (*a*) as increased by the value of the furniture and fixtures in respect of the period during which the said accommodation was occupied by the assessee during the previous year, exceeds the rent recoverable from, or payable by, the assessee;

(*d*) in a case where the accommodation is provided by the employer in a hotel (except where the assessee is provided such accommodation for a period not exceeding in aggregate fifteen days on his transfer from one place to another), the value of the accommodation determined at the rate of twenty-four per cent. of salary paid or payable for the previous year or the actual charges paid or payable to such hotel, whichever is lower, for the period during which such accommodation is provided, exceeds the rent recoverable from, or payable by, the assessee.

Explanation 2.—For the purposes of this sub-clause, value of furniture and fixtures shall be ten per cent. per annum of the cost of furniture (including television sets, radio sets, refrigerators, other household appliances, airconditioning plant or equipment or other similar appliances or gadgets) or if such furniture is hired from a third party, the actual hire charges payable for the same as reduced by any charges paid or payable for the same by the assessee during the previous year.

Explanation 3.—For the purposes of this sub-clause, "salary" includes the pay, allowances, bonus or commission payable monthly or otherwise or any monetary payment, by whatever name called, from one or more employers, as the case may be, but does not include the following, namely:—

(*a*) dearness allowance or dearness pay unless it enters into the computation of superannuation or retirement benefits of the employee concerned;

(*b*) employer's contribution to the provident fund account of the employee;

(*c*) allowances which are exempted from the payment of tax;

(*d*) value of the perquisites specified in this clause;

(*e*) any payment or expenditure specifically excluded under the proviso to this clause.';

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(*ii*) in *Explanation* 1 as so inserted, for clause (*a*), the following clause shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 2006, namely:—

"(*a*) in a case where an unfurnished accommodation is provided by any employer other than the Central Government or any State Government and—

(*i*) the accommodation is owned by the employer, the value of the accommodation determined at the specified rate in respect of the period during which the said accommodation was occupied by the assessee during the previous year, exceeds the rent recoverable from, or payable by, the assessee;

(*ii*) the accommodation is taken on lease or rent by the employer, the value of the accommodation being the actual amount of lease rental paid or payable by the employer or fifteen per cent. of salary, whichever is lower, in respect of the period during which the said accommodation was occupied by the assessee during the previous year, exceeds the rent recoverable from, or payable by, the assessee;";

(*iii*) after *Explanation* 3 as so inserted, the following *Explanation* shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 2006, namely:—

'*Explanation 4*.—For the purposes of this sub-clause, "specified rate" shall be—

(*i*) fifteen per cent. of salary in cities having population exceeding twenty-five lakhs as per 2001 census;

(*ii*) ten per cent. of salary in cities having population exceeding ten lakhs but not exceeding twenty-five lakhs as per 2001 census; and

(*iii*) seven and one-half per cent. of salary in any other place.';

(*B*) in sub-clause (*iii*), the proviso shall be omitted with effect from the 1st day of April, 2008.

Amendment of section 35.

12. In section 35 of the Income-tax Act, in sub-section (*2AB*), in clause (*5*), for the figures, letters and words "31st day of March, 2007", the figures, letters and words "31st day of March, 2012" shall be substituted with effect from the 1st day of April, 2008.

Amendment of section 36.

13. In section 36 of the Income-tax Act, in sub-section (*1*),—

(*A*) in clause (*ib*), for the words "paid by cheque", the words "paid by any mode of payment other than cash" shall be substituted with effect from the 1st day of April, 2008;

(*B*) in clause (*viia*),—

(*a*) in sub-clause (*a*), after the words "or a non-scheduled bank", the words "or a co-operative bank other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank" shall be inserted;

(*b*) in the *Explanation*,—

(*i*) in clause (*ii*) at the end, the words ", but does not include a co-operative bank" shall be omitted;

(*ii*) after clause (*v*), the following clause shall be inserted, namely:—

'(*vi*) "co-operative bank", "primary agricultural credit society" and "primary co-operative agricultural and rural development bank" shall have the meanings respectively assigned to them in the *Explanation* to sub-section (*4*) of section 80P;';

(*C*) for clause (*viii*), the following shall be substituted with effect from the 1st day of April, 2008, namely:—

'(*viii*) in respect of any special reserve created and maintained by a specified entity, an amount not exceeding twenty per cent. of the profits derived from eligible business computed under the head "Profits and gains of business or profession" (before making any deduction under this clause) carried to such reserve account:

Provided that where the aggregate of the amounts carried to such reserve account from time to time exceeds twice the amount of the paid up share capital and of the general reserves of the specified entity, no allowance under this clause shall be made in respect of such excess.

Explanation.—In this clause,—

(*a*) "specified entity" means,—

(*i*) a financial corporation specified in section 4A of the Companies Act, 1956;

1 of 1956.

(*ii*) a financial corporation which is a public sector company;

(*iii*) a banking company;

(*iv*) a co-operative bank other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank;

(*v*) a housing finance company; and

(*vi*) any other financial corporation including a public company;

(*b*) "eligible business" means,—

(*i*) in respect of the specified entity referred to in sub-clause (*i*) or sub-clause (*ii*) or sub-clause (*iii*) or sub-clause (*iv*) of clause (*a*), the business of providing long-term finance for industrial or agricultural development or development of infrastructure facility in India or construction or purchase of houses in India for residential purposes;

(*ii*) in respect of the specified entity referred to in sub-clause (*v*) of clause (*a*), the business of providing long-term finance for the construction or purchase of houses in India for residential purposes; and

(*iii*) in respect of the specified entity referred to in sub-clause (*vi*) of clause (*a*), the business of providing long-term finance for development of infrastructure facility in India;

(*c*) "banking company" means a company to which the Banking Regulation Act, 1949 applies and includes any bank or banking institution referred to in section 51 of that Act;

10 of 1949.

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(*d*) "co-operative bank", "primary agricultural credit society" and "primary co-operative agricultural and rural development bank" shall have the meanings respectively assigned to them in the *Explanation* to sub-section (*4*) of section 80P;

(*e*) "housing finance company" means a public company formed or registered in India with the main object of carrying on the business of providing long-term finance for construction or purchase of houses in India for residential purposes;

(*f*) "public company" shall have the meaning assigned to it in section 3 of the Companies Act, 1956; 1 of 1956.

(*g*) "infrastructure facility" means—

(*i*) an infrastructure facility as defined in the *Explanation* to clause (*i*) of sub-section (*4*) of section 80-IA, or any other public facility of a similar nature as may be notified by the Board in this behalf in the Official Gazette and which fulfils the conditions as may be prescribed;

(*ii*) an undertaking referred to in clause (*ii*) or clause (*iii*) or clause (*iv*) or clause (*vi*) of sub-section (*4*) of section 80-IA; and

(*iii*) an undertaking referred to in sub-section (*10*) of section 80-IB;

(*h*) "long-term finance" means any loan or advance where the terms under which moneys are loaned or advanced provide for repayment along with interest thereof during a period of not less than five years;';

(*D*) clause (*x*) shall be omitted with effect from the 1st day of April, 2008;

(*E*) for clause (*xii*), the following clause shall be substituted with effect from the 1st day of April, 2008, namely:—

"(*xii*) any expenditure (not being in the nature of capital expenditure) incurred by a corporation or a body corporate, by whatever name called, if,—

(*a*) it is constituted or established by a Central, State or Provincial Act;

(*b*) such corporation or body corporate, having regard to the objects and purposes of the Act referred to in sub-clause (*a*), is notified by the Central Government in the Official Gazette for the purposes of this clause; and

(*c*) the expenditure is incurred for the objects and purposes authorised by the Act under which it is constituted or established;";

(*F*) after clause (*xiii*), the following clause shall be inserted with effect from the 1st day of April, 2008, namely:—

'(*xiv*) any sum paid by a public financial institution by way of contribution to such credit guarantee fund trust for small industries as the Central Government may, by notification in the Official Gazette, specify in this behalf.

Explanation.—For the purposes of this clause, "public financial institution" shall have the meaning assigned to it in section 4A of the Companies Act, 1956;'. 1 of 1956.

Amendment of section 40A.

14. In section 40A of the Income-tax Act, for sub-section (*3*), the following shall be substituted with effect from the 1st day of April, 2008, namely:—

"(*3*) (*a*) Where the assessee incurs any expenditure in respect of which payment is made in a sum exceeding twenty thousand rupees otherwise than by an account

payee cheque drawn on a bank or account payee bank draft, no deduction shall be allowed in respect of such expenditure;

(*b*) where an allowance has been made in the assessment for any year in respect of any liability incurred by the assessee for any expenditure and subsequently during any previous year (hereinafter referred to as subsequent year) the assessee makes payment in respect thereof, otherwise than by an account payee cheque drawn on a bank or account payee bank draft, the payment so made shall be deemed to be the profits and gains of business or profession and accordingly chargeable to income-tax as income of the subsequent year if the amount of payment exceeds twenty thousand rupees:

Provided that no disallowance shall be made and no payment shall be deemed to be the profits and gains of business or profession under this sub-section where any payment in a sum exceeding twenty thousand rupees is made otherwise than by an account payee cheque drawn on a bank or account payee bank draft, in such cases and under such circumstances as may be prescribed, having regard to the nature and extent of banking facilities available, considerations of business expediency and other relevant factors.".

15. After section 44DA of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2008, namely:— Insertion of new section 44DB.

'44DB. (*1*) The deduction under section 32, section 35D, section 35DD or section 35DDA shall, in a case where business reorganisation of a co-operative bank has taken place during the financial year, be allowed in accordance with the provisions of this section. Special provision for computing deductions in the case of business reorganisation of co-operative banks.

(*2*) The amount of deduction allowable to the predecessor co-operative bank under section 32, section 35D, section 35DD or section 35DDA shall be determined in accordance with the formula—

$$A \times \frac{B}{C}$$

where A = the amount of deduction allowable to the predecessor co-operative bank if the business reorganisation had not taken place;

B = the number of days comprised in the period beginning with the 1st day of the financial year and ending on the day immediately preceding the date of business reorganisation; and

C = the total number of days in the financial year in which the business reorganisation has taken place.

(*3*) The amount of deduction allowable to the successor co-operative bank under section 32, section 35D, section 35DD or section 35DDA shall be determined in accordance with the formula—

$$A \times \frac{B}{C}$$

where A = the amount of deduction allowable to the predecessor co-operative bank if the business reorganisation had not taken place;

B = the number of days comprised in the period beginning with the date of business reorganisation and ending on the last day of the financial year; and

C = the total number of days in the financial year in which the business reorganisation has taken place.

(4) The provisions of section 35D, section 35DD or section 35DDA shall, in a case where an undertaking of the predecessor co-operative bank entitled to the deduction under the said section is transferred before the expiry of the period specified therein to a successor co-operative bank on account of business reorganisation, apply to the successor co-operative bank in the financial years subsequent to the year of business reorganisation as they would have applied to the predecessor co-operative bank, as if the business reorganisation had not taken place.

(5) For the purposes of this section,—

(a) "amalgamated co-operative bank" means—

(i) a co-operative bank with which one or more amalgamating co-operative banks merge; or

(ii) a co-operative bank formed as a result of merger of two or more amalgamating co-operative banks;

(b) "amalgamating co-operative bank" means—

(i) a co-operative bank which merges with another co-operative bank; or

(ii) every co-operative bank merging to form a new co-operative bank;

(c) "amalgamation" means the merger of an amalgamating co-operative bank or banks with an amalgamated co-operative bank, in such manner that—

(i) all the assets and liabilities of the amalgamating co-operative bank or banks immediately before the merger (other than the assets transferred, by sale or distribution on winding up, to the amalgamated co-operative bank) become the assets and liabilities of the amalgamated co-operative bank;

(ii) the members holding seventy-five per cent. or more voting rights in the amalgamating co-operative bank become members of the amalgamated co-operative bank; and

(iii) the shareholders holding seventy-five per cent. or more in value of the shares in the amalgamating co-operative bank (other than the shares held by the amalgamated co-operative bank or its nominee or its subsidiary, immediately before the merger) become shareholders of the amalgamated co-operative bank;

(d) "business reorganisation" means the reorganisation of business involving the amalgamation or demerger of a co-operative bank;

(e) "co-operative bank" shall have the meaning assigned to it in clause (cci) of section 5 of the Banking Regulation Act, 1949; 10 of 1949.

(f) "demerger" means the transfer by a demerged co-operative bank of one or more of its undertakings to any resulting co-operative bank, in such manner that—

(i) all the assets and liabilities of the undertaking or undertakings immediately before the transfer become the assets and liabilities of the resulting co-operative bank;

(ii) the assets and the liabilities are transferred to the resulting co-operative bank at values (other than change in the value of assets consequent to their revaluation) appearing in its books of account immediately before the transfer;

(*iii*) the resulting co-operative bank issues, in consideration of the transfer, its membership to the members of the demerged co-operative bank on a proportionate basis;

(*iv*) the shareholders holding seventy-five per cent. or more in value of the shares in the demerged co-operative bank (other than shares already held by the resulting bank or its nominee or its subsidiary immediately before the transfer), become shareholders of the resulting co-operative bank, otherwise than as a result of the acquisition of the assets of the demerged co-operative bank or any undertaking thereof by the resulting co-operative bank;

(*v*) the transfer of the undertaking is on a going concern basis; and

(*vi*) the transfer is in accordance with the conditions specified by the Central Government, by notification in the Official Gazette, having regard to the necessity to ensure that the transfer is for genuine business purposes;

(*g*) "demerged co-operative bank" means the co-operative bank whose undertaking is transferred, pursuant to a demerger, to a resulting bank;

(*h*) "predecessor co-operative bank" means the amalgamating co-operative bank or the demerged co-operative bank, as the case may be;

(*i*) "successor co-operative bank" means the amalgamated co-operative bank or the resulting bank, as the case may be;

(*j*) "resulting co-operative bank" means—

(*i*) one or more co-operative banks to which the undertaking of the demerged co-operative bank is transferred in a demerger; or

(*ii*) any co-operative bank formed as a result of demerger.'.

16. In section 47 of the Income-tax Act, after clause (*vic*), the following shall be inserted with effect from the 1st day of April, 2008, namely:— Amendment of section 47.

'(*vica*) any transfer in a business reorganisation, of a capital asset by the predecessor co-operative bank to the successor co-operative bank;

(*vicb*) any transfer by a shareholder, in a business reorganisation, of a capital asset being a share or shares held by him in the predecessor co-operative bank if the transfer is made in consideration of the allotment to him of any share or shares in the successor co-operative bank.

Explanation.—For the purposes of clauses (*vica*) and (*vicb*), the expressions "business reorganisation", "predecessor co-operative bank" and "successor co-operative bank" shall have the meanings respectively assigned to them in section 44DB;'.

17. In section 49 of the Income-tax Act, with effect from the 1st day of April, 2008,— Amendment of section 49.

(*i*) in sub-section (*1*), in clause (*iii*), in sub-clause (*e*), for the word, brackets, figures and letters "clause (*viaa*)", the words, brackets, figures and letters "clause (*viaa*) or clause (*vica*) or clause (*vicb*)" shall be substituted;

(*ii*) after sub-section (*2AA*), the following sub-section shall be inserted, namely:—

"(*2AB*) Where the capital gain arises from the transfer of specified security or sweat equity shares, the cost of acquisition of such security or shares shall be the fair market value which has been taken into account while computing the value of fringe benefits under clause (*ba*) of sub-section (*1*) of section 115WC.";

(*iii*) after sub-section (*2D*), and before the *Explanation*, the following sub-section shall be inserted, namely:—

"(*2E*) The provisions of sub-section (*2*), sub-section (*2C*) and sub-section (*2D*) shall, as far as may be, also apply in relation to business reorganisation of a co-operative bank as referred to in section 44DB.".

Amendment of section 54EC.

18. In section 54EC of the Income-tax Act,—

(*a*) in sub-section (*1*), the following proviso shall be inserted, namely:—

"Provided that the investment made on or after the 1st day of April, 2007 in the long-term specified asset by an assessee during any financial year does not exceed fifty lakh rupees.";

(*b*) after sub-section (*3*), in the *Explanation*,—

(*i*) for clause (*b*), the following clause shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 2006, namely:—

'(*b*) "long-term specified asset" for making any investment under this section during the period commencing from the 1st day of April, 2006 and ending with the 31st day of March, 2007, means any bond, redeemable after three years and issued on or after the 1st day of April, 2006, but on or before the 31st day of March, 2007,—

(*i*) by the National Highways Authority of India constituted under section 3 of the National Highways Authority of India Act, 1988; or 68 of 1988.

(*ii*) by the Rural Electrification Corporation Limited, a company formed and registered under the Companies Act, 1956, 1 of 1956.

and notified by the Central Government in the Official Gazette for the purposes of this section with such conditions (including the condition for providing a limit on the amount of investment by an assessee in such bond) as it thinks fit;';

(*ii*) in clause (*b*) as so substituted, the following proviso shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 2006, namely:—

"Provided that where any bond has been notified before the 1st day of April, 2007, subject to the conditions specified in the notification, by the Central Government in the Official Gazette under the provisions of clause (*b*) as they stood immediately before their amendment by the Finance Act, 2007, such bond shall be deemed to be a bond notified under this clause;";

(*iii*) after the proviso as so inserted, the following clause shall be inserted, namely:—

'(*bq*) "long-term specified asset" for making any investment under this section on or after the 1st day of April, 2007 means any bond, redeemable after three years and issued on or after the 1st day of April, 2007 by the National Highways Authority of India constituted under section 3 of the National Highways Authority of India Act, 1988 or by the Rural Electrification Corporation Limited, a company formed and registered under the Companies Act, 1956.'. 68 of 1988. 1 of 1956.

19. In section 56 of the Income-tax Act, in sub-section (*2*), in clause (*v*), in the proviso, the following sub-clauses shall be deemed to have been inserted with effect from the 1st day of April, 2005, namely:— Amendment of section 56.

"(*e*) from any local authority as defined in the *Explanation* to clause (*20*) of section 10; or

(*f*) from any fund or foundation or university or other educational institution or hospital or other medical institution or any trust or institution referred to in clause (*23C*) of section 10; or

(*g*) from any trust or institution registered under section 12AA.".

20. In section 72A of the Income-tax Act, for sub-section (*1*), the following sub-section shall be substituted with effect from the 1st day of April, 2008, namely:— Amendment of section 72A.

"(*1*) Where there has been an amalgamation of—

(*a*) a company owning an industrial undertaking or a ship or a hotel with another company; or

(*b*) a banking company referred to in clause (*c*) of section 5 of the Banking Regulation Act, 1949 with a specified bank; or 10 of 1949.

(*c*) one or more public sector company or companies engaged in the business of operation of aircraft with one or more public sector company or companies engaged in similar business,

then, notwithstanding anything contained in any other provision of this Act, the accumulated loss and the unabsorbed depreciation of the amalgamating company shall be deemed to be the loss or, as the case may be, allowance for unabsorbed depreciation of the amalgamated company for the previous year in which the amalgamation was effected, and other provisions of this Act relating to set-off and carry forward of loss and allowance for depreciation shall apply accordingly.".

21. After section 72AA of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2008, namely:— Insertion of new section 72AB. Provisions relating to carry forward and set off of accumulated loss and unabsorbed depreciation allowance in business reorganisation of co-operative banks.

'72AB. (*1*) The assessee, being a successor co-operative bank, shall, in a case where the amalgamation has taken place during the previous year, be allowed to set-off the accumulated loss and the unabsorbed depreciation, if any, of the predecessor co-operative bank as if the amalgamation had not taken place, and all the other provisions of this Act relating to set-off and carry forward of loss and allowance for depreciation shall apply accordingly.

(*2*) The provisions of this section shall apply if—

(*a*) the predecessor co-operative bank—

(*i*) has been engaged in the business of banking for three or more years; and

(*ii*) has held at least three-fourths of the book value of fixed assets as on the date of the business reorganisation, continuously for two years prior to the date of business reorganisation;

(*b*) the successor co-operative bank—

(*i*) holds at least three-fourths of the book value of fixed assets of the predecessor co-operative bank acquired through business reorganisation, continuously for a minimum period of five years immediately succeeding the date of business reorganisation;

(*ii*) continues the business of the predecessor co-operative bank for a minimum period of five years from the date of business reorganisation; and

(*iii*) fulfils such other conditions as may be prescribed to ensure the revival of the business of the predecessor co-operative bank or to ensure that the business reorganisation is for genuine business purpose.

(*3*) The amount of set-off of the accumulated loss and unabsorbed depreciation, if any, allowable to the assessee being a resulting co-operative bank shall be,—

(*i*) the accumulated loss or unabsorbed depreciation of the demerged co-operative bank if the whole of the amount of such loss or unabsorbed depreciation is directly relatable to the undertakings transferred to the resulting co-operative bank; or

(*ii*) the amount which bears the same proportion to the accumulated loss or unabsorbed depreciation of the demerged co-operative bank as the assets of the undertaking transferred to the resulting co-operative bank bears to the assets of the demerged co-operative bank if such accumulated loss or unabsorbed depreciation is not directly relatable to the undertakings transferred to the resulting co-operative bank.

(*4*) The Central Government may, for the purposes of this section, by notification in the Official Gazette, specify such other conditions as it considers necessary, other than those prescribed under sub-clause (*iii*) of clause (*b*) of sub-section (*2*), to ensure that the business reorganisation is for genuine business purposes.

(*5*) The period commencing from the beginning of the previous year and ending on the date immediately preceding the date of business reorganisation, and the period commencing from the date of such business reorganisation and ending with the previous year shall be deemed to be two different previous years for the purposes of set-off and carry forward of loss and allowance for depreciation.

(*6*) In a case where the conditions specified in sub-section (*2*) or notified under sub-section (*4*) are not complied with, the set-off of accumulated loss or unabsorbed depreciation allowed in any previous year to the successor co-operative bank shall be deemed to be the income of the successor co-operative bank chargeable to tax for the year in which the conditions are not complied with.

(*7*) For the purposes of this section,—

(*a*) "accumulated loss" means so much of loss of the amalgamating co-operative bank or the demerged co-operative bank, as the case may be, under the head "Profits and gains of business or profession" (not being a loss sustained in a speculation business) which such amalgamating co-operative bank or the demerged co-operative bank, would have been entitled to carry forward and set-off under the provisions of section 72 as if the business reorganisation had not taken place;

(*b*) "unabsorbed depreciation" means so much of the allowance for depreciation of the amalgamating co-operative bank or the demerged co-operative bank, as the case may be, which remains to be allowed and which would have been allowed to such bank as if the business reorganisation had not taken place;

(*c*) the expressions "amalgamated co-operative bank", "amalgamating co-operative bank", "amalgamation", "business reorganisation", "co-operative bank", "demerged co-operative bank", "demerger", "predecessor co-operative bank", "successor co-operative bank" and "resulting co-operative bank" shall have the meanings respectively assigned to them in section 44DB.'.

Amendment of section 80A.

22. In section 80A of the Income-tax Act, in sub-section (*3*),—

(*i*) after the word, figures and letters "section 80-IB", the words, figures and letters "or section 80-IC" shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 2004;

(*ii*) after the words, figures and letters "or section 80-IC" as so inserted, the words, figures and letters "or section 80-ID or section 80-IE" shall be inserted with effect from the 1st day of April, 2008.

23. In section 80AC of the Income-tax Act, after the word, figures and letters "section 80-IC", the words, figures and letters "or section 80-ID or section 80-IE" shall be inserted with effect from the 1st day of April, 2008. Amendment of section 80AC.

24. In section 80C of the Income-tax Act, in sub-section (*2*), after clause (*xxi*), the following clause shall be inserted with effect from the 1st day of April, 2008, namely:— Amendment of section 80C.

"(*xxii*) as subscription to such bonds issued by the National Bank for Agriculture and Rural Development, as the Central Government may, by notification in the Official Gazette, specify in this behalf.".

25. In section 80CCD of the Income-tax Act,— Amendment of section 80CCD.

(*a*) in sub-section (*1*), for the words "employed by the Central Government", the words "employed by the Central Government or any other employer" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 2004;

(*b*) in sub-section (*2*), for the words "Central Government" at both the places where they occur, the words "Central Government or any other employer" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 2004.

26. In section 80D of the Income-tax Act, in sub-section (*1*), with effect from the 1st day of April, 2008,— Amendment of section 80D.

(*a*) for the words "paid by him by cheque", the words "paid by him by any mode of payment other than cash" shall be substituted;

(*b*) in clause (*i*), for the word "ten", the word "fifteen" shall be substituted;

(*c*) in clause (*ii*), for the word "ten", the word "fifteen" shall be substituted;

(*d*) in the proviso,—

(*i*) for the word "ten", the word "fifteen" shall be substituted;

(*ii*) for the word "fifteen", the word "twenty" shall be substituted.

27. In section 80E of the Income-tax Act, with effect from the 1st day of April, 2008,— Amendment of section 80E.

(*i*) in sub-section (*1*), after the words "higher education", the words "or for the purpose of higher education of his relative" shall be inserted;

(*ii*) in sub-section (*3*),—

(*A*) in clause (*a*), for the words "notified by the Central Government", the words "approved by the prescribed authority" shall be substituted;

(*B*) after clause (*d*), the following clause shall be inserted, namely:—

'(*e*) "relative", in relation to an individual, means the spouse and children of that individual.'.

28. In section 80-IA of the Income-tax Act,— Amendment of section 80-IA.

(*i*) in sub-section (*2*), after the words "distribution lines", the words "or lays and begins to operate a cross-country natural gas distribution network" shall be inserted with effect from the 1st day of April, 2008;

(*ii*) in sub-section (*3*), for the word, brackets and figures "clause (*iv*)", the words, brackets and figures "clause (*iv*) or clause (*vi*)" shall be substituted with effect from the 1st day of April, 2008;

(*iii*) in sub-section (*4*), with effect from the 1st day of April, 2008,—

(*A*) in clause (*i*), in the *Explanation*, in clause (*d*), for the words "or inland port", the words ", inland port or navigational channel in the sea" shall be substituted;

(*B*) in clause (*v*), in sub-clause (*b*), for the figures, letters and words "31st day of March, 2007", the figures, letters and words "31st day of March, 2008" shall be substituted;

(*C*) after clause (*v*), the following clause shall be inserted, namely:—

'(*vi*) any undertaking carrying on the business of laying and operating a cross-country natural gas distribution network, including pipelines and storage facilities being an integral part of such network, which fulfils the following conditions, namely:—

(*a*) it is owned by a company registered in India or by a consortium of such companies or by an authority or a board or a corporation established or constituted under any Central or State Act;

(*b*) it has been approved by the Petroleum and Natural Gas Regulatory Board established under sub-section (*1*) of section 3 of the Petroleum and Natural Gas Regulatory Board Act, 2006 and notified by the Central Government in the Official Gazette; 19 of 2006.

(*c*) one-third of its total pipeline capacity is available for use on common carrier basis by any person other than the assessee or an associated person;

(*d*) it has started or starts operating on or after the 1st day of April, 2007; and

(*e*) any other condition which may be prescribed.

Explanation.—For the purposes of this clause, an "associated person" in relation to the assessee means a person—

(*i*) who participates directly or indirectly or through one or more intermediaries in the management or control or capital of the assessee;

(*ii*) who holds, directly or indirectly, shares carrying not less than twenty-six per cent. of the voting power in the assessee;

(*iii*) who appoints more than half of the Board of directors or members of the governing board, or one or more executive directors or executive members of the governing board of the assessee; or

(*iv*) who guarantees not less than ten per cent. of the total borrowings of the assessee.';

(*iv*) after sub-section (*12*), the following sub-section shall be inserted with effect from the 1st day of April, 2008, namely:—

"(*12A*) Nothing contained in sub-section (*12*) shall apply to any enterprise or undertaking which is transferred in a scheme of amalgamation or demerger on or after the 1st day of April, 2007.";

(*v*) after sub-section (*13*), the following *Explanation* shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 2000, namely:—

"*Explanation*.—For the removal of doubts, it is hereby declared that nothing contained in this section shall apply to a person who executes a works contract entered into with the undertaking or enterprise, as the case may be.".

29. In section 80-IB of the Income-tax Act, in sub-section (*4*), in the fourth proviso, for the figures, letters and words "31st day of March, 2007", the figures, letters and words "31st day of March, 2012" shall be substituted with effect from the 1st day of April, 2008. Amendment of section 80-IB.

30. In section 80-IC of the Income-tax Act, in sub-section (2), with effect from the 1st day of April, 2008,— Amendment of section 80-IC.

(i) in clause *(a)*, in sub-caluse *(i)*, for the figures, letters and words "1st day of April, 2012", the figures, letters and words "1st day of April, 2007" shall be substituted;

(ii) in clause *(b)* in sub-clause *(i)*, for the figures, letters and words "1st day of April, 2012", the figures, letters and words "1st day of April, 2007" shall be substituted.

31. After section 80-IC of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2008, namely:— Insertion of new section 80-ID.

'80-ID (*1*) Where the gross total income of an assessee includes any profits and gains derived by an undertaking from any business referred to in sub-section (*2*) (such business being hereinafter referred to as the eligible business), there shall, in accordance with and subject to the provisions of this section, be allowed, in computing the total income of the assessee, a deduction of an amount equal to hundred per cent. of the profits and gains derived from such business for five consecutive assessment years beginning from the initial assessment year. Deduction in respect of profits and gains from business of hotels and convention centres in specified area.

(*2*) This section applies to any undertaking,—

(*i*) engaged in the business of hotel located in the specified area, if such hotel is constructed and has started or starts functioning at any time during the period beginning on the 1st day of April, 2007 and ending on the 31st day of March, 2010; or

(*ii*) engaged in the business of building, owning and operating a convention centre, located in the specified area, if such convention centre is constructed at any time during the period beginning on the 1st day of April, 2007 and ending on the 31st day of March, 2010.

(*3*) The deduction under sub-section (*1*) shall be available only if—

(*i*) the eligible business is not formed by the splitting up, or the reconstruction, of a business already in existence;

(*ii*) the eligible business is not formed by the transfer to a new business of a building previously used as a hotel or a convention centre, as the case may be;

(*iii*) the eligible business is not formed by the transfer to a new business of machinery or plant previously used for any purpose.

Explanation.—The provisions of *Explanations* 1 and 2 to sub-section (*3*) of section 80-IA shall apply for the purposes of clause (*iii*) of this sub-section as they apply for the purposes of clause (*ii*) of that sub-section;

(*iv*) the assessee furnishes along with the return of income, the report of an audit in such form and containing such particulars as may be prescribed, and duly signed and verified by an accountant, as defined in the *Explanation* below sub-section (*2*) of section 288, certifying that the deduction has been correctly claimed.

(*4*) Notwithstanding anything contained in any other provision of this Act, in computing the total income of the assessee, no deduction shall be allowed under any other section contained in Chapter VIA or section 10AA, in relation to the profits and gains of the undertaking.

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(5) The provisions contained in sub-section (5) and sub-sections (8) to (11) of section 80-IA shall, so far as may be, apply to the eligible business under this section.

(6) For the purposes of this section,—

(a) "convention centre" means a building of a prescribed area comprising of convention halls to be used for the purpose of holding conferences and seminars, being of such size and number and having such other facilities and amenities, as may be prescribed;

(b) "hotel" means a hotel of two-star, three-star or four-star category as classified by the Central Government;

(c) "initial assessment year"—

(i) in the case of a hotel, means the assessment year relevant to the previous year in which the business of the hotel starts functioning;

(ii) in the case of a convention centre, means the assessment year relevant to the previous year in which the convention centre starts operating on a commercial basis;

(d) "specified area" means the National Capital Territory of Delhi and the districts of Faridabad, Gurgaon, Gautam Budh Nagar and Ghaziabad.'.

Insertion of new section 80-IE.

32. After section 80-ID as so inserted in the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2008, namely:—

Special provisions in respect of certain undertakings in North-Eastern States.

'80-IE. (1) Where the gross total income of an assessee includes any profits and gains derived by an undertaking, to which this section applies, from any business referred to in sub-section (2), there shall be allowed, in computing the total income of the assessee, a deduction of an amount equal to hundred per cent. of the profits and gains derived from such business for ten consecutive assessment years commencing with the initial assessment year.

(2) This section applies to any undertaking which has, during the period beginning on the 1st day of April, 2007 and ending before the 1st day of April, 2017, begun or begins, in any of the North-Eastern States,—

(i) to manufacture or produce any eligible article or thing;

(ii) to undertake substantial expansion to manufacture or produce any eligible article or thing;

(iii) to carry on any eligible business.

(3) This section applies to any undertaking which fulfils all the following conditions, namely:—

(i) it is not formed by splitting up, or the reconstruction, of a business already in existence:

Provided that this condition shall not apply in respect of an undertaking which is formed as a result of the re-establishment, reconstruction or revival by the assessee of the business of any such undertaking as referred to in section 33B, in the circumstances and within the period specified in the said section;

(ii) it is not formed by the transfer to a new business of machinery or plant previously used for any purpose.

Explanation.—The provisions of *Explanations* 1 and 2 to sub-section (3) of section 80-IA shall apply for the purposes of clause (ii) of this sub-section as they apply for the purposes of clause (ii) of that sub-section.

(4) Notwithstanding anything contained in any other provision of this Act, in computing the total income of the assessee, no deduction shall be allowed under any other section contained in Chapter VIA or in section 10A or section 10AA or section 10B or section 10BA, in relation to the profits and gains of the undertaking.

(5) Notwithstanding anything contained in this Act, no deduction shall be allowed to any undertaking under this section, where the total period of deduction inclusive of the period of deduction under this section, or under section 80-IC or under the second proviso to sub-section (4) of section 80-IB or under section 10C, as the case may be, exceeds ten assessment years.

(6) The provisions contained in sub-section (5) and sub-section (7) to (12) of section 80-IA shall, so far as may be, apply to the eligible undertaking under this section.

(7) For the purposes of this section,—

(i) "initial assessment year" means the assessment year relevant to the previous year in which the undertaking begins to manufacture or produce articles or things, or completes substantial expansion;

(ii) "North-Eastern States" means the States of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim and Tripura;

(iii) "substantial expansion" means increase in the investment in the plant and machinery by at least twenty-five per cent. of the book value of plant and machinery (before taking depreciation in any year), as on the first day of the previous year in which the substantial expansion is undertaken;

(iv) "eligible article or thing" means the article or thing other than the following:—

5 of 1986. (a) goods falling under Chapter 24 of the First Schedule to the Central Excise Tariff Act, 1985, which pertains to tobacco and manufactured tobacco substitutes;

5 of 1986. (b) pan masala as covered under Chapter 21 of the First Schedule to the Central Excise Tariff Act, 1985;

(c) plastic carry bags of less than 20 microns as specified by the Ministry of Environment and Forests *vide* notification number S. O. 705(E), dated the 2nd September, 1999 and S.O. 698(E), dated the 17th June, 2003; and

5 of 1986. (d) goods falling under Chapter 27 of the First Schedule to the Central Excise Tariff Act, 1985, produced by petroleum oil or gas refineries;

(v) "eligible business" means the business of,—

(a) hotel (not below two star category);

(b) adventure and leisure sports including ropeways;

(c) providing medical and health services in the nature of nursing home with a minimum capacity of twenty-five beds;

(d) running an old-age home;

(e) operating vocational training institute for hotel management, catering and food craft, entrepreneurship development, nursing and para-medical, civil aviation related training, fashion designing and industrial training;

(f) running information technology related training centre;

(g) manufacturing of information technology hardware; and

(h) bio-technology.'.

33. In section 92CA of the Income-tax Act, with effect from the 1st day of June, 2007,— Amendment of section 92CA.

(i) after sub-section (3), the following sub-section shall be inserted, namely:—

"(3A) Where a reference was made under sub-section (1) before the 1st day of June, 2007 but the order under sub-section (3) has not been made by

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the Transfer Pricing Officer before the said date, or a reference under sub-section (*1*) is made on or after the 1st day of June, 2007, an order under sub-section (*3*) may be made at any time before sixty days prior to the date on which the period of limitation referred to in section 153, or as the case may be, in section 153B for making the order of assessment or reassessment or recomputation or fresh assessment, as the case may be, expires.";

(*ii*) for sub-section (*4*), the following sub-section shall be substituted, namely:—

"(*4*) On receipt of the order under sub-section (*3*), the Assessing Officer shall proceed to compute the total income of the assessee under sub-section (*4*) of section 92C in conformity with the arm's length price as so determined by the Transfer Pricing Officer.".

Amendment of section 115JB.

34. In section 115JB of the Income-tax Act, after sub-section (*2*), in the *Explanation* with effect from the 1st day of April, 2008,—

(*a*) in clause (*f*), the words, figures and letters "section 10A or section 10B or" shall be omitted;

(*b*) in clause (*ii*), the words, figures and letters "section 10A or section 10B or" shall be omitted.

Amendment of section 115-O.

35. In section 115-O of the Income-tax Act, in sub-section (*1*), for the words "at the rate of twelve and one-half per cent.", the words "at the rate of fifteen per cent." shall be substituted.

Amendment of section 115R.

36. In section 115R of the Income-tax Act, in sub-section (*2*), for clauses (*i*) and (*ii*), the following clauses shall be substituted, namely:—

"(*i*) twenty-five per cent. on income distributed by a money market mutual fund or a liquid fund;

(*ii*) twelve and one-half per cent. on income distributed to any person being an individual or a Hindu undivided family by a fund other than a money market mutual fund or a liquid fund; and

(*iii*) twenty per cent. on income distributed to any other person by a fund other than a money market mutual fund or a liquid fund:".

Amendment of *Explanation* to Chapter XII-E.

37. In Chapter XII-E of the Income-tax Act, after section 115T, in the *Explanation*, after clause (*c*), the following clauses shall be inserted, namely:—

'(*d*) "money market mutual fund" means a money market mutual fund as defined in sub-clause (*p*) of clause 2 of the Securities and Exchange Board of India (Mutual Funds) Regulations, 1996;

(*e*) "liquid fund" means a scheme or plan of a mutual fund which is classified by the Securities and Exchange Board of India as a liquid fund in accordance with the guidelines issued by it in this behalf under the Securities and Exchange Board of India Act, 1992 or regulations made thereunder.'. 15 of 1992.

Amendment of section 115WB.

38. In section 115WB of the Income-tax Act, with effect from the 1st day of April, 2008,—

(*A*) in sub-section (*1*),—

(*i*) in clause (*b*), the word "and" occurring at the end shall be omitted;

(*ii*) in clause (*c*), for the word "employees", the words "employees; and" shall be substituted;

(*iii*) after clause (*c*), the following clause shall be inserted, namely:—

'(*d*) any specified security or sweat equity shares allotted or transferred, directly or indirectly, by the employer free of cost or at

concessional rate to his employees (including former employee or employees).

Explanation.—For the purposes of this clause,—

(*i*) "specified security" means the securities as defined in clause (*h*) of section 2 of the Securities Contracts (Regulation) Act, 1956 and includes employees' stock option;

42 of 1956.

(*ii*) "sweat equity shares" means equity shares issued by a company to its employees or directors at a discount or for consideration other than cash for providing know-how or making available rights in the nature of intellectual property rights or value additions, by whatever name called.';

(*B*) in sub-section (*2*), in the proviso,—

(*a*) in clause (*v*), for the words "bill boards", the words "bill boards, display of products" shall be substituted;

(*b*) for clause (*vii*), the following clause shall be substituted, namely:—

"(*vii*) being the expenditure on distribution of samples either free of cost or at concessional rate; and".

Amendment of section 115WC.

39. In section 115WC of the Income-tax Act, in sub-section (*1*), after clause (*b*), the following shall be inserted with effect from the 1st day of April, 2008, namely:—

'(*ba*) the fair market value of the specified security or sweat equity shares referred to in clause (*d*) of sub-section (*1*) of section 115WB, on the date on which the option vests with the employee as reduced by the amount actually paid by, or recovered from, the employee in respect of such security or shares.

Explanation.—For the purposes of this clause,—

(*i*) "fair market value" means the value determined in accordance with the method as may be prescribed by the Board;

(*ii*) "option" means a right but not an obligation granted to an employee to apply for the specified security or sweat equity shares at a predetermined price.'.

Amendment of section 115WJ.

40. In section 115WJ of the Income-tax Act, for sub-sections (*2*) and (*3*), the following sub-sections shall be substituted with effect from the 1st day of June, 2007, namely:—

"(*2*) Advance tax on the current fringe benefits shall be payable by –

(*a*) all the companies, who are liable to pay the same in four instalments during each financial year and the due date of each instalment and the amount of such instalment shall be as specified in Table I below:

Table I

Due date of instalment	Amount payable
On or before the 15th June	Not less than fifteen per cent. of such advance tax.
On or before the 15th September	Not less than forty-five per cent. of such advance tax as reduced by the amount, if any, paid in the earlier instalment.
On or before the 15th December	Not less than seventy-five per cent. of such advance tax as reduced by the amount or amounts, if any, paid in the earlier instalment or instalments.
On or before the 15th March	The whole amount of such advance tax as reduced by the amount or amounts, if any, paid in the earlier instalment or instalments;

(*b*) all the assessees (other than companies), who are liable to pay the same in three instalments during each financial year and the due date of each instalment and the amount of such instalment shall be as specified in Table II below:

Table II

Due date of instalment	Amount payable
On or before the 15th September	Not less than thirty per cent. of such advance tax.
On or before the 15th December	Not less than sixty per cent. of such advance tax as reduced by the amount, if any, paid in the earlier instalment.
On or before the 15th March	The whole amount of such advance tax as reduced by the amount or amounts, if any, paid in the earlier instalment or instalments.

(*3*) Where an assessee, being a company, has failed to pay the advance tax payable by him on or before the due date for any instalment or where the advance tax paid by him is less than the amount payable by the due date, he shall be liable to pay simple interest calculated at the rate of—

(*i*) one per cent. per month, for three months on an amount by which the advance tax paid on or before the 15th June of the financial year falls short of fifteen per cent. of the advance tax payable;

(*ii*) one per cent. per month, for three months on an amount by which the advance tax paid on or before the 15th September of the financial year falls short of forty-five per cent. of the advance tax payable;

(*iii*) one per cent. per month, for three months on an amount by which the advance tax paid on or before the 15th December of the financial year falls short of seventy-five per cent. of the advance tax payable; and

(*iv*) one per cent. on an amount by which the advance tax paid on or before the 15th March of the financial year falls short of hundred per cent. of the advance tax payable.

(*4*) Where an assessee, being a person other than a company, has failed to pay the advance tax payable by him on or before the due date for any instalment or where the advance tax paid by him is less than the amount payable by the due date, he shall be liable to pay simple interest calculated at the rate of—

(*i*) one per cent. per month, for three months on an amount by which the advance tax paid on or before the 15th September of the financial year falls short of thirty per cent. of the advance tax payable;

(*ii*) one per cent. per month, for three months on an amount by which the advance tax paid on or before the 15th December of the financial year falls short of sixty per cent. of the advance tax payable; and

(*iii*) one per cent. on an amount by which the advance tax paid on or before the 15th March of the financial year falls short of hundred per cent. of the advance tax payable.

(*5*) Where an assessee has failed to pay the advance tax payable by him during a financial year or where the advance tax paid by him is less than ninety per cent. of the tax assessed under section 115WE or section 115WF or section 115WG, the assessee shall be liable to pay simple interest at the rate of one per cent. per month, for every month or part of a month comprised in the period from the 1st day of April next following such financial year to the date of assessment of tax under section 115WE or section 115WF or section 115WG".

41. After section 115WK of the Income-tax Act, the following section shall be inserted, namely:— Insertion of new section 115WKA.

"115WKA. Notwithstanding anything contained in any agreement or scheme under which any specified security or sweat equity shares referred to in clause (*d*) of sub-section (*1*) of section 115WB has been allotted or transferred, directly or indirectly, by the employer on or after the 1st day of April, 2007, it shall be lawful for the employer to vary the agreement or scheme under which such specified security or sweat equity shares has been allotted or transferred so as to recover from the employee the fringe benefit tax to the extent to which such employer is liable to pay the fringe benefit tax in relation to the value of fringe benefits provided to the employee and determined under clause (*ba*) of sub-section (*1*) of section 115WC.". Recovery of fringe benefit tax by the employer from the employee.

42. In section 120 of the Income-tax Act, in sub-section (*4*), in clause (*b*)— Amendment of section 120.

(*i*) after the words "shall be exercised or performed by", the words "an Additional Commissioner or" shall be inserted and shall be deemed to have been inserted with effect from the 1st day of June, 1994;

(*ii*) after the words "an Additional Commissioner or", as so inserted, the words "an Additional Director or" shall be inserted and shall be deemed to have been inserted with effect from the 1st day of October, 1996;

(*iii*) after the words "deemed to be references to such", the words "Additional Commissioner or" shall be inserted and shall be deemed to have been inserted with effect from the 1st day of June, 1994;

(*iv*) after the words "Additional Commissioner or" as so inserted, the words "Additional Director or" shall be inserted and shall be deemed to have been inserted with effect from the 1st day of October, 1996.

43. In section 132B of the Income-tax Act, in sub-section (*4*), in clause (*a*), for the words "six per cent. per annum", the words "one-half per cent. for every month or part of a month" shall be substituted with effect from the 1st day of April, 2008. Amendment of section 132B.

44. In section 139 of the Income-tax Act, in sub-section (*9*), the proviso occurring at the end shall be omitted and shall be deemed to have been omitted with effect from the 1st day of June, 2006. Amendment of section 139.

45. After section 139B of the Income-tax Act, the following sections shall be inserted and shall be deemed to have been inserted with effect from the 1st day of June, 2006, namely:— Insertion of new sections 139C and 139D.

"139C. (*1*) The Board may make rules providing for a class or classes of persons who may not be required to furnish documents, statements, receipts, certificates, reports of audit or any other documents, which are otherwise under any other provisions of this Act, except section 139D, required to be furnished, along with the return but on demand to be produced before the Assessing Officer. Power of Board to dispense with furnishing documents, etc., with return.

(*2*) Any rule made under the proviso to sub-section (*9*) of section 139 as it stood immediately before its omission by the Finance Act, 2007 shall be deemed to have been made under the provisions of this section.

139D. The Board may make rules providing for— Filing of return in electronic form.

(*a*) the class or classes of persons who shall be required to furnish the return in electronic form;

(*b*) the form and the manner in which the return in electronic form may be furnished;

(*c*) the documents, statements, receipts, certificates or audited reports which may not be furnished along with the return in electronic form but shall be produced before the Assessing Officer on demand;

(*d*) the computer resource or the electronic record to which the return in electronic form may be transmitted.".

Amendment of section 142.

46. In section 142 of the Income-tax Act,—

(*a*) in sub-section (*2A*), the following proviso shall be inserted with effect from the 1st day of June, 2007, namely:—

"Provided that the Assessing Officer shall not direct the assessee to get the accounts so audited unless the assessee has been given a reasonable opportunity of being heard.";

(*b*) in sub-section (*2D*), the following proviso shall be inserted with effect from the 1st day of June, 2007, namely:—

"Provided that where any direction for audit under sub-section (*2A*) is issued by the Assessing Officer on or after the 1st day of June, 2007, the expenses of, and incidental to, such audit (including the remuneration of the Accountant) shall be determined by the Chief Commissioner or Commissioner in accordance with such guidelines as may be prescribed and the expenses so determined shall be paid by the Central Government.".

Amendment of section 143.

47. In section 143 of the Income-tax Act, in sub-section (*3*), in the proviso, in sub-clause (*ii*), after the words "scientific research association or other association", the words "or fund or trust" shall be inserted with effect from the 1st day of June, 2007.

Amendment of section 153.

48. In section 153 of the Income-tax Act, with effect from the 1st day of June, 2007,—

(*a*) in sub-section (*1*), after the proviso, the following proviso shall be inserted, namely:—

'Provided further that in case the assessment year in which the income was first assessable is the assessment year commencing on the 1st day of April, 2005 or any subsequent assessment year and during the course of the proceeding for the assessment of total income, a reference under sub-section (*1*) of section 92CA—

(*i*) was made before the 1st day of June, 2007 but an order under sub-section (*3*) of that section has not been made before such date; or

(*ii*) is made on or after the 1st day of June, 2007,

the provisions of clause (*a*) shall, notwithstanding anything contained in the first proviso, have effect as if for the words "two years", the words "thirty-three months" had been substituted.';

(*b*) in sub-section (*2*), after the second proviso, the following proviso shall be inserted, namely:—

'Provided also that where the notice under section 148 was served on or after the 1st day of April, 2006 and during the course of the proceedings for the assessment or reassessment or recomputation of total income, a reference under sub-section (*1*) of section 92CA—

(*i*) was made before the 1st day of June, 2007 but an order under sub-section (*3*) of that section has not been made before such date; or

(*ii*) is made on or after the 1st day of June, 2007,

the provisions of this sub-section shall, notwithstanding anything contained in the second proviso, have effect as if for the words "one year", the words "twenty-one months" had been substituted.';

(*c*) in sub-section (*2A*), after the second proviso, the following proviso shall be inserted, namely:—

'Provided also that where the order under section 254 is received by the Chief Commissioner or Commissioner or, as the case may be, the order under section 263 or section 264 is passed by the Commissioner on or after the 1st day of April, 2006, and during the course of the proceedings for the fresh assessment of total income, a reference under sub-section (*1*) of section 92CA—

(*i*) was made before the 1st day of June, 2007 but an order under sub-section (*3*) of section 92CA has not been made before such date; or

(*ii*) is made on or after the 1st day of June, 2007,

the provisions of this sub-section shall, notwithstanding anything contained in the second proviso, have effect as if for the words "one year", the words "twenty-one months" had been substituted.'.

49. In section 153B of the Income-tax Act, in sub-section (*1*), after the second proviso and before the *Explanation*, the following provisos shall be inserted with effect from the 1st day of June, 2007, namely:— Amendment of section 153B.

'Provided also that in case where the last of the authorisations for search under section 132 or for requisition under section 132A was executed during the financial year commencing on the 1st day of April, 2005 or any subsequent financial year and during the course of the proceedings for the assessment or reassessment of total income, a reference under sub-section (*1*) of section 92CA—

(*i*) was made before the 1st day of June, 2007 but an order under sub-section (*3*) of section 92CA has not been made before such date; or

(*ii*) is made on or after the 1st day of June, 2007,

the provisions of clause (*a*) or clause (*b*) of this sub-section shall, notwithstanding anything contained in clause (*i*) of the second proviso, have effect as if for the words "two years", the words "thirty-three months" had been substituted:

Provided also that in case where the last of the authorisations for search under section 132 or for requisition under section 132A was executed during the financial year commencing on the 1st day of April, 2005 or any subsequent financial year and during the course of the proceedings for the assessment or reassessment of total income in case of other person referred to in section 153C, a reference under sub-section (*1*) of section 92CA—

(*i*) was made before the 1st day of June, 2007 but an order under sub-section (*3*) of section 92CA has not been made before such date; or

(*ii*) is made on or after the 1st day of June, 2007,

the period of limitation for making the assessment or reassessment in case of such other person shall, notwithstanding anything contained in clause (*ii*) of the second proviso, be the period of thirty-three months from the end of the financial year in which the last of the authorisations for search under section 132 or for requisition under section 132A was executed or twenty-one months from the end of the financial year in which books of account or documents or assets seized or requisitioned are handed over under section 153C to the Assessing Officer having jurisdiction over such other person, whichever is later.'.

Insertion of new section 153D.

50. In the Income-tax Act, after section 153C, the following section shall be inserted with effect from the 1st day of June, 2007, namely:—

Prior approval necessary for assessment in cases or requisition.

"153D. No order of assessment or reassessment shall be passed by an Assessing Officer below the rank of Joint Commissioner in respect of each assessment year referred to in clause (*b*) of section 153A or the assessment year referred to in clause (*b*) of sub-section (*1*) of section 153B, except with the prior approval of the Joint Commissioner.".

Amendment of section 172.

51. In section 172 of the Income-tax Act, after sub-section (*4*), the following sub-section shall be inserted, namely:–

"(*4A*) No order assessing the income and determining the sum of tax payable thereon shall be made under sub-section (*4*) after the expiry of nine months from the end of the financial year in which the return under sub-section (*3*) is furnished:

Provided that where the return under sub-section (*3*) has been furnished before the 1st day of April, 2007, such order shall be made on or before the 31st day of December, 2008.".

Amendment of section 193.

52. In section 193 of the Income-tax Act, in the proviso, in clause (*iv*), the following proviso shall be inserted with effect from the 1st day of June, 2007, namely:—

"Provided that nothing contained in this clause shall apply to the interest exceeding rupees ten thousand payable on 8% Savings (Taxable) Bonds, 2003 during the financial year;".

Amendment of section 194A.

53. In section 194A of the Income-tax Act, in sub-section (*3*), in clause (*i*), for the words " does not exceed five thousand rupees", the following words, brackets, letters and figures shall be substituted with effect from the 1st day of June, 2007, namely:—

"does not exceed—

(*a*) ten thousand rupees, where the payer is a banking company to which the Banking Regulation Act, 1949 applies (including any bank or banking institution, referred to in section 51 of that Act); 10 of 1949.

(*b*) ten thousand rupees, where the payer is a co-operative society engaged in carrying on the business of banking;

(c) ten thousand rupees, on any deposit with post office under any scheme framed by the Central Government and notified by it in this behalf; and

(*d*) five thousand rupees in any other case:".

Amendment of section 194C.

54. In section 194C of the Income-tax Act, for sub-section (*1*), the following sub-section shall be substituted with effect from the 1st day of June, 2007, namely:—

"(*1*) Any person responsible for paying any sum to any resident (hereinafter in this section referred to as the contractor) for carrying out any work (including supply of labour for carrying out any work) in pursuance of a contract between the contractor and—

(*a*) the Central Government or any State Government; or

(*b*) any local authority; or

(*c*) any corporation established by or under a Central, State or Provincial Act; or

(*d*) any company; or

(*e*) any co-operative society; or

(*f*) any authority, constituted in India by or under any law, engaged either for the purpose of dealing with and satisfying the need for housing

accommodation or for the purpose of planning, development or improvement of cities, towns and villages, or for both; or

21 of 1860. (*g*) any society registered under the Societies Registration Act, 1860 or under any law corresponding to that Act in force in any part of India; or

(*h*) any trust; or

(*i*) any university established or incorporated by or under a Central, State or Provincial Act and an institution declared to be a university under section 3 of the University Grants Commission Act, 1956; or

3 of 1956.

(*j*) any firm; or

(*k*) any individual or a Hindu undivided family, whose total sales, gross receipts or turnover from the business or profession carried on by him exceed the monetary limits specified under clause (*a*) or clause (*b*) of section 44AB during the financial year immediately preceding the financial year in which such sum is credited or paid to the account of the contractor,

shall, at the time of credit of such sum to the account of the contractor or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct an amount equal to—

(*i*) one per cent. in case of advertising,

(*ii*) in any other case two per cent.,

of such sum as income-tax on income comprised therein:

Provided that no individual or a Hindu undivided family shall be liable to deduct income-tax on the sum credited or paid to the account of the contractor where such sum is credited or paid exclusively for personal purposes of such individual or any member of Hindu undivided family.".

55. In section 194H of the Income-tax Act, with effect from the 1st day of June, 2007,— Amendment of section 194H.

(*a*) for the words "five per cent.", the words "ten per cent." shall be substituted;

(*b*) after the second proviso and before the *Explanation*, the following proviso shall be inserted, namely:—

"Provided also that no deduction shall be made under this section on any commission or brokerage payable by Bharat Sanchar Nigam Limited or Mahanagar Telephone Nigam Limited to their public call office franchisees.".

56. In section 194-I of the Income-tax Act, for clauses (*a*) and (*b*), the following clauses shall be substituted with effect from the 1st day of June, 2007, namely:— Amendment of section 194-I.

"(*a*) ten per cent. for the use of any machinery or plant or equipment;

(*b*) fifteen per cent. for the use of any land or building (including factory building) or land appurtenant to a building (including factory building) or furniture or fittings where the payee is an individual or a Hindu undivided family; and

(*c*) twenty per cent. for the use of any land or building (including factory building) or land appurtenant to a building (including factory building) or furniture or fittings where the payee is a person other than an individual or a Hindu undivided family:".

57. In section 194J of the Income-tax Act, in sub-section (*1*), for the words "five per cent.", the words "ten per cent." shall be substituted with effect from the 1st day of June, 2007. Amendment of section 194J.

58. In section 197A of the Income-tax Act, in sub-section (*1C*), the words, figures and letter "and is entitled to a deduction from the amount of income-tax on his total income Amendment of section 197A.

referred to in section 88B" shall be omitted and shall be deemed to have been omitted with effect from the 1st day of April, 2006.

Amendment of section 201.

59. In section 201 of the Income-tax Act, in sub-section (*1A*), for the words "twelve per cent. per annum", the words "one per cent. for every month or part of a month" shall be substituted with effect from the 1st day of April, 2008.

Amendment of section 206A.

60. In section 206A of the Income-tax Act, in sub-section (*1*), for the words "not exceeding five thousand rupees", the words "not exceeding ten thousand rupees, where the payer is a banking company or a co-operative society, and five thousand rupees in any other case" shall be substituted with effect from the 1st day of June, 2007.

Amendment of section 206C.

61. In section 206C of the Income-tax Act, in sub-section (*1C*), after the Table, the following *Explanations* shall be inserted with effect from the 1st day of June, 2007, namely:—

'*Explanation* 1.— For the purposes of this sub-section, "mining and quarrying" shall not include mining and quarrying of mineral oil.

Explanation 2.— For the purposes of *Explanation* 1, "mineral oil" includes petroleum and natural gas.'.

Amendment of section 245A.

62. In section 245A of the Income-tax Act, with effect from the 1st day of June, 2007,—

(*a*) for clause (*b*), the following clause shall be substituted, namely:—

'(*b*) "case" means any proceeding for assessment under this Act, of any person in respect of any assessment year or assessment years which may be pending before an Assessing Officer on the date on which an application under sub-section (*1*) of section 245C is made:

Provided that—

(*i*) a proceeding for assessment or reassessment or recomputation under section 147;

(*ii*) a proceeding for assessment or reassessment for any of the assessment years referred to in clause (*b*) of section 153A in case of a person referred to in section 153A or section 153C;

(*iii*) a proceeding for assessment or reassessment for the assessment year referred to in clause (*b*) of sub-section (*1*) of section 153B in case of a person referred to in section 153A or section 153C;

(*iv*) a proceeding for making fresh assessment in pursuance of an order under section 254 or section 263 or section 264, setting aside or cancelling an assessment,

shall not be a proceeding for assessment for the purposes of this clause.

Explanation.—For the purposes of this clause—

(*i*) a proceeding for assessment or reassessment or recomputation referred to in clause (*i*) of the proviso shall be deemed to have commenced from the date on which a notice under section 148 is issued;

(*ii*) a proceeding for assessment or reassessment referred to in clause (*ii*) or clause (*iii*) of the proviso shall be deemed to have commenced on the date of initiation of the search under section 132 or requisition under section 132A;

(*iii*) a proceeding for making fresh assessment referred to in clause (*iv*) of the proviso shall be deemed to have commenced from the date on which the order under section 254 or section 263 or section 264, setting aside or cancelling an assessment was passed;

(*iv*) a proceeding for assessment for any assessment year, other than the proceedings of assessment or reassessment referred to in clause (*i*) or clause (*ii*) or clause (*iii*) or clause (*iv*) of the proviso, shall be deemed to have commenced from the 1st day of the assessment year and concluded on the date on which the assessment is made;';

(*b*) in clause (*g*), after the words "Settlement Commission", the words "and includes a Member who is senior amongst the Members of a Bench" shall be inserted.

63. In section 245C of the Income-tax Act, with effect from the 1st day of June, 2007— Amendment of section 245C.

(*i*) in sub-section (*1*), for the proviso, the following proviso shall be substituted, namely:—

"Provided that no such application shall be made unless—

(*i*) the additional amount of income-tax payable on the income disclosed in the application exceeds three lakh rupees; and

(*ii*) such tax and the interest thereon, which would have been paid under the provisions of this Act had the income disclosed in the application been declared in the return of income before the Assessing Officer on the date of application, has been paid on or before the date of making the application and the proof of such payment is attached with the application.";

(*ii*) in sub-section (*1A*), the words, brackets, figures and letters "and sub-sections (*2A*) to (*2D*) of section 245D" shall be omitted;

(*iii*) for sub-section (*1B*), the following sub-section shall be substituted, namely:—

"(*1B*) Where the income disclosed in the application relates to only one previous year,—

(*i*) if the applicant has not furnished a return in respect of the total income of that year, then, tax shall be calculated on the income disclosed in the application as if such income were the total income;

(*ii*) if the applicant has furnished a return in respect of the total income of that year, tax shall be calculated on the aggregate of the total income returned and the income disclosed in the application as if such aggregate were the total income.";

(*iv*) in sub-section (*1C*), clause (*c*) shall be omitted;

(*v*) after sub-section (*3*), the following sub-section shall be inserted, namely:—

"(4) An assessee shall, on the date on which he makes an application under sub-section (*1*) to the Settlement Commission, also intimate the Assessing Officer in the prescribed manner of having made such application to the said Commission.".

64. In section 245D of the Income-tax Act, — Amendment of section 245D.

(*i*) for sub-section (*1*), the following sub-section shall be substituted with effect from the 1st day of June, 2007, namely:—

"(*1*) On receipt of an application under section 245C, the Settlement Commission shall, within seven days from the date of receipt of the application, issue a notice to the applicant requiring him to explain as to why the application made by him be allowed to be proceeded with, and on hearing the applicant, the Settlement Commission shall, within a period of fourteen days from the date of the application, by an order in writing, reject the application or allow the application to be proceeded with:

Provided that where no order has been passed within the aforesaid period by the Settlement Commission, the application shall be deemed to have been allowed to be proceeded with.";

(*ii*) for sub-sections (*2A*), (*2B*), (*2C*) and (*2D*), the following sub-sections shall be substituted with effect from the 1st day of June, 2007, namely:—

"(*2A*) Where an application was made under section 245C before the 1st day of June, 2007, but an order under the provisions of sub-section (*1*) of this section, as they stood immediately before their amendment by the Finance Act, 2007, has not been made before the 1st day of June, 2007, such application shall be deemed to have been allowed to be proceeded with if the additional tax on the income disclosed in such application and the interest thereon is paid on or before the 31st day of July, 2007.

Explanation.–In respect of the application referred to in this sub-section, the 31st day of July, 2007 shall be deemed to be the date of the order of rejection or allowing the application to be proceeded with under sub-section (*1*).

(*2B*) The Settlement Commission shall,—

(*i*) in respect of an application which is allowed to be proceeded with under sub-section (*1*), within thirty days from the date on which the application was made; or

(*ii*) in respect of an application referred to in sub-section (*2A*) which is deemed to have been allowed to be proceeded with under that sub-section, on or before the 7th day of August, 2007,

call for a report from the Commissioner, and the Commissioner shall furnish the report within a period of thirty days of the receipt of communication from the Settlement Commission.

(*2C*) Where a report of the Commissioner called for under sub-section (*2B*) has been furnished within the period specified therein, the Settlement Commission may, on the basis of the report and within a period of fifteen days of the receipt of the report, by an order in writing, declare the application in question as invalid, and shall send the copy of such order to the applicant and the Commissioner:

Provided that an application shall not be declared invalid unless an opportunity has been given to the applicant of being heard:

Provided further that where the Commissioner has not furnished the report within the aforesaid period, the Settlement Commission shall proceed further in the matter without the report of the Commissioner.

(*2D*) Where an application was made under sub-section (*1*) of section 245C before the 1st day of June, 2007 and an order under the provisions of sub-section (*1*) of this section, as they stood immediately before their amendment by the Finance Act, 2007, allowing the application to have been proceeded with, has been passed before the 1st day of June, 2007, but an order under the provisions of sub-section (*4*), as they stood immediately before their amendment by the Finance Act, 2007, was not passed before the 1st day of June, 2007, such application shall not be allowed to be further proceeded with unless the additional tax on the income disclosed in such application and the interest thereon, is, notwithstanding any extension of time already granted by the Settlement Commission, paid on or before the 31st day of July, 2007.";

(*iii*) for sub-sections (*3*), (*4*) and (*4A*), the following sub-sections shall be substituted with effect from the 1st day of June, 2007, namely:—

"(*3*) The Settlement Commission, in respect of—

(*i*) an application which has not been declared invalid under sub-section (*2C*); or

(*ii*) an application referred to in sub-section (*2D*) which has been allowed to be further proceeded with under that sub-section,

may call for the records from the Commissioner and after examination of such records, if the Settlement Commission is of the opinion that any further enquiry or investigation in the matter is necessary, it may direct the Commissioner to make or cause to be made such further enquiry or investigation and furnish a report on the matters covered by the application and any other matter relating to the case, and the Commissioner shall furnish the report within a period of ninety days of the receipt of communication from the Settlement Commission:

Provided that where the Commissioner does not furnish the report within the aforesaid period, the Settlement Commission may proceed to pass an order under sub-section (*4*) without such report.

(*4*) After examination of the records and the report of the Commissioner, if any, received under—

(*i*) sub-section (*2B*) or sub-section (*3*), or

(*ii*) the provisions of sub-section (*1*) as they stood immediately before their amendment by the Finance Act, 2007,

and after giving an opportunity to the applicant and to the Commissioner to be heard, either in person or through a representative duly authorised in this behalf, and after examining such further evidence as may be placed before it or obtained by it, the Settlement Commission may, in accordance with the provisions of this Act, pass such order as it thinks fit on the matters covered by the application and any other matter relating to the case not covered by the application, but referred to in the report of the Commissioner.

(*4A*) The Settlement Commission shall pass an order under sub-section (*4*),–

(*i*) in respect of an application referred to in sub-section (*2A*) or sub-section (*2D*), on or before the 31st day of March, 2008;

(*ii*) in respect of an application made on or after the 1st day of June, 2007, within twelve months from the end of the month in which the application was made.";

(*iv*) in sub-section (*6A*), for the words "fifteen per cent. per annum", the words "one and one-fourth per cent. for every month or part of a month" shall be substituted with effect from the 1st day of April, 2008.

65. In section 245DD of the Income-tax Act, in sub-section (*2*), in the proviso, the words ", so, however, that the total period of extension shall not in any case exceed two years" shall be omitted with effect from the 1st day of June, 2008. Amendment of section 245DD.

66. In section 245E of the Income-tax Act, after the proviso, the following proviso shall be inserted with effect from the 1st day of June, 2007, namely:— Amendment of section 245E.

"Provided further that no proceeding shall be reopened by the Settlement Commission under this section in a case where an application under section 245C is made on or after the 1st day of June, 2007.".

Amendment of section 245F.

67. In section 245F of the Income-tax Act, in sub-section (*2*), the following provisos shall be inserted with effect from the 1st day of June, 2007, namely:—

"Provided that where an application has been made under section 245C on or after the 1st day of June, 2007, the Settlement Commission shall have such exclusive jurisdiction from the date on which the application was made:

Provided further that where—

(*i*) an application made on or after the 1st day of June, 2007, is rejected under sub-section (*1*) of section 245D; or

(*ii*) an application is not allowed to be proceeded with under sub-section (*2A*) of section 245D, or, as the case may be, is declared invalid under sub-section (*2C*) of that section; or

(*iii*) an application is not allowed to be further proceeded with under sub-section (*2D*) of section 245D,

the Settlement Commission, in respect of such application shall have such exclusive jurisdiction up to the date on which the application is rejected, or, not allowed to be proceeded with, or, declared invalid, or, not allowed to be further proceeded with, as the case may be.".

Amendment of section 245H.

68. In section 245H of the Income-tax Act, in sub-section (*1*), after the proviso, the following proviso shall be inserted with effect from the 1st day of June, 2007, namely:—

"Provided further that the Settlement Commission shall not grant immunity from prosecution for any offence under the Indian Penal Code or under any Central Act other than this Act and the Wealth-tax Act, 1957 to a person who makes an application under section 245C on or after the 1st day of June, 2007.". 45 of 1860. 27 of 1957.

Insertion of new sections 245HA and 245HAA.

69. After section 245H of the Income-tax Act, the following sections shall be inserted with effect from the 1st day of June, 2007, namely:—

Abatement of proceeding before Settlement Commission.

"245HA. (*1*) Where—

(*i*) an application made under section 245C on or after the 1st day of June, 2007 has been rejected under sub-section (*1*) of section 245D; or

(*ii*) an application made under section 245C has not been allowed to be proceeded with under sub-section (*2A*) or further proceeded with under sub-section (*2D*) of section 245D; or

(*iii*) an application made under section 245C has been declared as invalid under sub-section (*2C*) of section 245D; or

(*iv*) in respect of any other application made under section 245C, an order under sub-section (*4*) of section 245D has not been passed within the time or period specified under sub-section (*4A*) of section 245D,

the proceedings before the Settlement Commission shall abate on the specified date.

Explanation.—For the purposes of this sub-section, "specified date" means—

(*a*) in respect of an application referred to in clause (*i*), the day on which the application was rejected;

(*b*) in respect of an application referred to in clause (*ii*), the 31st day of July, 2007;

(*c*) in respect of an application referred to in clause (*iii*), the last day of the month in which the application was declared invalid;

(*d*) in respect of an application referred to in clause (*iv*), on the date on which the time or period specified in sub-section (*4A*) of section 245D expires.

(*2*) Where a proceeding before the Settlement Commission abates, the Assessing Officer, or, as the case may be, any other income-tax authority before whom the proceeding at the time of making the application was pending, shall dispose of the case in accordance with the provisions of this Act as if no application under section 245C had been made.

(*3*) For the purposes of sub-section (*2*), the Assessing Officer, or, as the case may be, other income-tax authority, shall be entitled to use all the material and other information produced by the assessee before the Settlement Commission or the results of the inquiry held or evidence recorded by the Settlement Commission in the course of the proceedings before it, as if such material, information, inquiry and evidence had been produced before the Assessing Officer or other income-tax authority or held or recorded by him in the course of the proceedings before him.

(*4*) For the purposes of the time-limit under sections 149, 153, 153B, 154, 155, 158BE and 231 and for the purposes of payment of interest under section 243 or 244 or, as the case may be, section 244A, for making the assessment or reassessment under sub-section (*2*), the period commencing on and from the date of the application to the Settlement Commission under section 245C and ending with "specified date" referred to in sub-section (*1*) shall be excluded; and where the assessee is a firm, for the purposes of the time-limit for cancellation of registration of the firm under sub-section (*1*) of section 186, the period aforesaid shall, likewise, be excluded.

Credit for tax paid in case of abatement of proceedings.

245HAA. Where an application made under section 245C on or after the 1st day of June, 2007, is rejected under sub-section (*1*) of section 245D, or any other application made under section 245C is not allowed to be proceeded with under sub-section (*2A*) of section 245D or is declared invalid under sub-section (*2C*) of section 245D or has not been allowed to be further proceeded with under sub-section (*2D*) of section 245D or an order under sub-section (*4*) of section 245D has not been passed within the time or period specified under sub-section (*4A*) of section 245D, the Assessing Officer shall allow the credit for the tax and interest paid on or before the date of making the application or during the pendency of the case before the Settlement Commission.".

Substitution of new section for section 245K.

70. For section 245K of the Income-tax Act, the following section shall be substituted with effect from the 1st day of June, 2007, namely:—

Bar on subsequent application for settlement.

"245K. (*1*) Where—

(*i*) an order of settlement passed under sub-section (*4*) of section 245D provides for the imposition of a penalty on the person who made the application under section 245C for settlement, on the ground of concealment of particulars of his income; or

(*ii*) after the passing of an order of settlement under the said sub-section (*4*) in relation to a case, such person is convicted of any offence under Chapter XXII in relation to that case; or

(*iii*) the case of such person was sent back to the Assessing Officer by the Settlement Commission on or before the 1st day of June, 2002,

then, he shall not be entitled to apply for settlement under section 245C in relation to any other matter.

(*2*) Where a person has made an application under section 245C on or after the 1st day of June, 2007 and if such application has been allowed to be proceeded with under sub-section (*1*) of section 245D, such person shall not be subsequently entitled to make an application under section 245C.".

Amendment of section 246A.

71. In section 246A of the Income-tax Act, with effect from the 1st day of June, 2007,—

(*a*) in sub-section (*1*), —

(*i*) after clause (*ha*), the following clause shall be inserted, namely:—

"(*hb*) an order made under sub-section (*6A*) of section 206C;";

(*ii*) in clause (*j*), in sub-clause (*B*), after the word, figures and letter "section 271A,", the word, figures and letters "section 271AAA," shall be inserted;

(*b*) after sub-section (*1A*), the following sub-section shall be inserted, namely:—

"(*1B*) Every appeal filed by an assessee in default against an order under sub-section (*6A*) of section 206C on or after the 1st day of April, 2007 but before the 1st day of June, 2007 shall be deemed to have been filed under this section.".

Substitution of new section for section 248.

72. For section 248 of the Income-tax Act, the following section shall be substituted with effect from the 1st day of June, 2007, namely:—

Appeal by a person denying liability to deduct tax in certain cases.

"248. Where under an agreement or other arrangement, the tax deductible on any income, other than interest, under section 195 is to be borne by the person by whom the income is payable, and such person having paid such tax to the credit of the Central Government, claims that no tax was required to be deducted on such income, he may appeal to the Commissioner (Appeals) for a declaration that no tax was deductible on such income.".

Amendment of section 249.

73. In section 249 of the Income-tax Act, in sub-section (*2*), for clause (*a*), the following clause shall be substituted with effect from the 1st day of June, 2007, namely:—

"(*a*) where the appeal is under section 248, the date of payment of the tax, or".

Amendment of section 253.

74. In section 253 of the Income-tax Act, in sub-section (*1*), in clause (*c*), for the words, figures and letters "under section 12AA", the words, figures, letters and brackets "under section 12AA or under clause (*vi*) of sub-section (*5*) of section 80G" shall be substituted with effect from the 1st day of June, 2007.

Amendment of section 254.

75. In section 254 of the Income-tax Act, in sub-section (*2A*), for the provisos, the following provisos shall be substituted with effect from the 1st day of June, 2007, namely:—

"Provided that the Appellate Tribunal may, after considering the merits of the application made by the assessee, pass an order of stay in any proceedings relating to an appeal filed under sub-section (*1*) of section 253, for a period not exceeding one hundred and eighty days from the date of such order and the Appellate Tribunal shall dispose of the appeal within the said period of stay specified in that order:

Provided further that where such appeal is not so disposed of within the said period of stay as specified in the order of stay, the Appellate Tribunal may, on an application made in this behalf by the assessee and on being satisfied that the delay in disposing of the appeal is not attributable to the assessee, extend the period of stay, or pass an order of stay for a further period or periods as it thinks fit; so, however, that the aggregate of the period originally allowed and the period or periods so extended or allowed shall not, in any case, exceed three hundred and sixty-five days and the Appellate Tribunal shall dispose of the appeal within the period or periods of stay so extended or allowed:

Provided also that if such appeal is not so disposed of within the period allowed under the first proviso or the period or periods extended or allowed under the second proviso, the order of stay shall stand vacated after the expiry of such period or periods.".

76. In section 271 of the Income-tax Act, in sub-section (*1*),— Amendment of section 271.

(*i*) in *Explanation* 4, in clause (*b*), for the words "means the tax on the total income assessed;", the words and figures "means the tax on the total income assessed as reduced by the amount of advance tax, tax deducted at source, tax collected at source and self assessment tax paid before the issue of notice under section 148;" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 2003;

(*ii*) in *Explanation* 5, in the opening portion, for the words and figures "search under section 132", the words, figures and letters "search initiated under section 132 before the 1st day of June, 2007" shall be substituted with effect from the 1st day of June, 2007;

(*iii*) after *Explanation* 5, the following *Explanation* shall be inserted with effect from the 1st day of June, 2007, namely:—

"*Explanation* 5A.—Where in the course of a search initiated under section 132 on or after the 1st day of June, 2007, the assessee is found to be the owner of,—

(*i*) any money, bullion, jewellery or other valuable article or thing (hereinafter in this *Explanation* referred to as assets) and the assessee claims that such assets have been acquired by him by utilising (wholly or in part) his income for any previous year; or

(*ii*) any income based on any entry in any books of account or other documents or transactions and he claims that such entry in the books of account or other documents or transactions represents his income (wholly or in part) for any previous year,

which has ended before the date of the search and the due date for filing the return of income for such year has expired and the assessee has not filed the return, then, notwithstanding that such income is declared by him in any return of income furnished on or after the date of the search, he shall, for the purposes of imposition of a penalty under clause (*c*) of sub-section (*1*) of this section, be deemed to have concealed the particulars of his income or furnished inaccurate particulars of such income.".

77. In the Income-tax Act, after section 271AA, the following section shall be inserted, namely:— Insertion of new section 271AAA. Penalty where search has been initiated.

'271AAA. (*1*) The Assessing Officer may, notwithstanding anything contained in any other provisions of this Act, direct that, in a case where search has been initiated under section 132 on or after the 1st day of June, 2007, the assessee shall pay by way of penalty, in addition to tax, if any, payable by him, a sum computed at the rate of ten per cent. of the undisclosed income of the specified previous year.

(*2*) Nothing contained in sub-section (*1*) shall apply if the assessee,—

(*i*) in the course of the search, in a statement under sub-section (*4*) of section 132, admits the undisclosed income and specifies the manner in which such income has been derived;

(*ii*) substantiates the manner in which the undisclosed income was derived; and

(*iii*) pays the tax, together with interest, if any, in respect of the undisclosed income.

(*3*) No penalty under the provisions of clause (*c*) of sub-section (*1*) of section 271 shall be imposed upon the assessee in respect of the undisclosed income referred to in sub-section (*1*).

(*4*) The provisions of sections 274 and 275 shall, so far as may be, apply in relation to the penalty referred to in this section.

Explanation.—For the purposes of this section,—

(*a*) "undisclosed income" means—

(*i*) any income of the specified previous year represented, either wholly or partly, by any money, bullion, jewellery or other valuable article or thing or any entry in the books of account or other documents or transactions found in the course of a search under section 132, which has—

(*A*) not been recorded on or before the date of search in the books of account or other documents maintained in the normal course relating to such previous year; or

(*B*) otherwise not been disclosed to the Chief Commissioner or Commissioner before the date of search; or

(*ii*) any income of the specified previous year represented, either wholly or partly, by any entry in respect of an expense recorded in the books of account or other documents maintained in the normal course relating to the specified previous year which is found to be false and would not have been found to be so had the search not been conducted;

(*b*) "specified previous year" means the previous year—

(*i*) which has ended before the date of search, but the date of filing the return of income under sub-section (*1*) of section 139 for such year has not expired before the date of search and the assessee has not furnished the return of income for the previous year before the said date; or

(*ii*) in which search was conducted.'.

Insertion of new section 292C.

78. After section 292B of the Income-tax Act, the following section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of October, 1975, namely:—

Presumption as to assets books of account, etc.

"292C. Where any books of account, other documents, money, bullion, jewellery or other valuable article or thing are or is found in the possession or control of any person in the course of a search under section 132, it may, in any proceeding under this Act, be presumed—

(*i*) that such books of account, other documents, money, bullion, jewellery or other valuable article or thing belong or belongs to such person;

(*ii*) that the contents of such books of account and other documents are true; and

(*iii*) that the signature and every other part of such books of account and other documents which purport to be in the handwriting of any particular person or which may reasonably be assumed to have been signed by, or to be in the handwriting of, any particular person, are in that person's handwriting, and in the case of a document stamped, executed or attested, that it was duly stamped and executed or attested by the person by whom it purports to have been so executed or attested.".

Amendment of section 295.

79. In section 295 of the Income-tax Act, in sub-section (*2*), after clause (*eeb*), the following clauses shall be inserted and shall be deemed to have been inserted, with effect from the 1st day of June, 2006, namely:—

"(*eeba*) the documents, statements, receipts, certificates or audited reports which may not be furnished along with the return but shall be produced before the Assessing Officer on demand under section 139C;

(*eebb*) the class or classes of persons who shall be required to furnish the return of income in electronic form; the form and the manner of furnishing the said return in electronic form; documents, statements, receipts, certificates or reports which shall not be furnished with the return in electronic form and the computer resource or electronic record to which such return may be transmitted under section 139D;".

80. In section 296 of the Income-tax Act, with effect from the 1st day of June, 2007, for the words, brackets, figures and letter "every notification issued under sub-clause (*iv*) of clause (*23C*) of section 10", the words, figures, letters and brackets "every notification issued before the 1st day of June, 2007 under sub-clause (*iv*) of clause (*23C*) of section 10" shall be substituted. Amendment of section 296.

81. In the Second Schedule to the Income-tax Act, with effect from the 1st day of April, 2008,— Amendment of Second Schedule.

(*a*) in rule 60, in sub-rule (*1*), in clause (*a*), for the words "fifteen per cent. per annum", the words "one and one-fourth per cent. for every month or part of a month" shall be substituted;

(*b*) in rule 68A, in sub-rule (*3*), for the words "six per cent. per annum", the words "one-half per cent. for every month or part of a month" shall be substituted.

82. In the Fourth Schedule to the Income-tax Act, in Part A,— Amendment of Fourth Schedule.

(*i*) in rule 3, in sub-rule (*1*),—

(*a*) in the proviso, for the figures, letters and words "31st day of March, 2007", the figures, letters and words "31st day of March, 2008" shall be substituted;

(*b*) after the proviso, the following proviso shall be inserted, namely:—

"Provided further that nothing contained in the first proviso shall apply to the provident fund of an establishment in respect of which a notification has been issued by the Central Government under sub-section (*2*) of section 16 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952.";

19 of 1952.

(*ii*) in rule 4, for clause (*ea*), the following clause shall be substituted, namely:—

"(*ea*) the fund shall be a fund of an establishment to which the provisions of sub-section (*3*) of section 1 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 apply or of an establishment which has been notified by the Central Provident Fund Commissioner under sub-section (*4*) of section 1 of the said Act, and such establishment shall obtain exemption under section 17 of the said Act from the operation of all or any of the provisions of any scheme referred to in that section;".

19 of 1952.

Wealth-tax

27 of 1957.

83. In section 2 of the Wealth-tax Act, 1957 (hereinafter referred to as the Wealth-tax Act),— Amendment of section 2.

(*a*) in clause (*ca*)–

(*i*) after the words and figure "section 8 of this Act and also the", the words "Additional Commissioner or" shall be inserted and shall be deemed to have been inserted with effect from the 1st day of June, 1994;

(*ii*) after the words "Additional Commissioner or", as so inserted, the words "Additional Director or" shall be inserted and shall be deemed to have been inserted with effect from the 1st day of October, 1996;

(*b*) for clause (*ka*), the following clause shall be substituted and shall be deemed to have been substituted with effect from the 25th day of August, 1976, namely:—

'(*ka*) "India" means the territory of India as referred to in article 1 of the Constitution, its territorial waters, seabed and subsoil underlying such waters, continental shelf, exclusive economic zone or any other maritime zone as referred to in the Territorial Waters, Continental Shelf, Exclusive Economic Zone and Other Maritime Zones Act, 1976, and the air space above its territory and territorial waters;'. 80 of 1976.

Amendment of section 22A.

84. In section 22A of the Wealth-tax Act, with effect from the 1st day of June, 2007,—

(*a*) for clause (*b*), the following shall be substituted, namely:—

'(*b*) "case" means any proceeding for assessment under this Act, of any person in respect of any assessment year or assessment years which may be pending before an Assessing Officer on the date on which an application under sub-section (*1*) of section 22C is made:

Provided that—

(*i*) a proceeding for assessment or reassessment under section 17;

(*ii*) a proceeding for making fresh assessment in pursuance of an order under section 23A or section 24 or section 25, setting aside or cancelling an assessment;

(*iii*) a proceeding for assessment or reassessment which may be initiated on the basis of a search under section 37A or requisition under section 37B,

shall not be a proceeding for assessment for the purposes of this clause.

Explanation.—For the purposes of this clause—

(*i*) a proceeding for assessment or reassessment referred to in clause (*i*) of the proviso shall, in case where a notice under section 17 is issued but not on the basis of search under section 37A or requisition under section 37B, be deemed to have commenced from the date on which a notice under section 17 is issued;

(*ii*) a proceeding for making fresh assessment referred to in clause (*ii*) of the proviso shall be deemed to have commenced from the date on which the order under section 23A or section 24 or section 25, setting aside or cancelling an assessment was passed;

(*iii*) a proceeding for assessment or reassessment referred to in clause (*iii*) of the proviso shall be deemed to have commenced on the date of initiation of the search under section 37A or requisition under section 37B;

(*iv*) a proceeding for assessment for an assessment year, other than the proceeding of assessment or reassessment referred to in clause (*i*) or clause (*ii*) or clause (*iii*) of the proviso, shall be deemed to have commenced from the 1st day of the assessment year and concluded on the date on which the assessment is made;';

(*b*) in clause (*f*), after the words "Settlement Commission", the words "and includes a Member who is senior amongst the Members of a Bench" shall be inserted.

Amendment of section 22C.

85. In section 22C of the Wealth-tax Act, with effect from the 1st day of June, 2007,—

(*i*) in sub-section (*1*), for the proviso, the following proviso shall be substituted, namely:—

"Provided that no such application shall be made unless such wealth-tax and the interest thereon, which would have been paid under the provisions of

this Act had the wealth declared in the application been declared in the return of wealth before the Assessing Officer on the date of application, has been paid on or before the date of making the application and the proof of such payment is attached with the application.";

(*ii*) in sub-section (*1A*), the words, brackets, figures and letters "and sub-sections (*2A*) to (*2D*) of section 22D" shall be omitted;

(*iii*) for sub-section (*1B*), the following sub-section shall be substituted, namely:—

"(*1B*) Where the wealth disclosed in the application relates to only one previous year,—

(*i*) if the applicant has not furnished a return in respect of the net wealth of that year, then, wealth-tax shall be calculated on the wealth disclosed in the application as if such wealth were the net wealth;

(*ii*) if the applicant has furnished a return in respect of the net wealth of that year, wealth-tax shall be calculated on the aggregate of the net wealth returned and the wealth disclosed in the application as if such aggregate were the net wealth.";

(*iv*) in sub-section (*1C*), clause (*c*) shall be omitted;

(*v*) after sub-section (*3*), the following sub-section shall be inserted, namely:—

"(*4*) An assessee shall, on the date on which he makes an application under sub-section (*1*) to the Settlement Commission, also intimate the Assessing Officer in the prescribed manner of having made such application to the said Commission.".

86. In section 22D of the Wealth-tax Act,— Amendment of section 22D.

(*i*) for sub-section (*1*), the following sub-section shall be substituted with effect from the 1st day of June, 2007, namely:—

"(*1*) On receipt of an application under section 22C, the Settlement Commission shall, within seven days from the date of receipt of the application, issue a notice to the applicant requiring him to explain as to why the application made by him be allowed to be proceeded with, and on hearing the applicant, the Settlement Commission shall, within a period of fourteen days from the date of the application, by an order in writing, reject the application or allow the application to be proceeded with:

Provided that where no order has been passed within the aforesaid period by the Settlement Commission, the application shall be deemed to have been allowed to be proceeded with.";

(*ii*) for sub-sections (*2A*), (*2B*), (*2C*) and (*2D*), the following sub-sections shall be substituted with effect from the 1st day of June, 2007, namely:—

"(*2A*) Where an application was made under section 22C before the 1st day of June, 2007 but an order under the provisions of sub-section (*1*) of this section, as they stood immediately before their amendment by the Finance Act, 2007, has not been made before the 1st day of June, 2007, such application shall be deemed to have been allowed to be proceeded with if the additional wealth-tax on the wealth disclosed in such application and the interest thereon is paid on or before the 31st day of July, 2007.

Explanation.—In respect of the application referred to in this sub-section, the 31st day of July, 2007 shall be deemed to be the date of the order of rejection or allowing the application to be proceeded with under sub-section (*1*).

(*2B*) The Settlement Commission shall,—

(*i*) in respect of an application which is allowed to be proceeded with under sub-section (*1*), within thirty days from the date on which the application was made; or

(*ii*) in respect of an application referred to in sub-section (*2A*) which is deemed to have been allowed to be proceeded with under that sub-section, on or before the 7th day of August, 2007,

call for a report from the Commissioner, and the Commissioner shall furnish the report within a period of thirty days of the receipt of communication from the Settlement Commission.

(*2C*) Where a report of the Commissioner called for under sub-section (*2B*) has been furnished within the period specified therein, the Settlement Commission may, on the basis of the material contained in such report and within a period of fifteen days of the receipt of the report, by an order in writing, declare the application in question as invalid, and shall send the copy of such order to the applicant and the Commissioner:

Provided that an application shall not be declared invalid unless an opportunity has been given to the applicant of being heard:

Provided further that where the Commissioner has not furnished the report within the aforesaid period, the Settlement Commission shall proceed further in the matter without the report of the Commissioner.

(*2D*) Where an application was made under sub-section (*1*) of section 22C before the 1st day of June, 2007 and an order under the provisions of sub-section (*1*) of this section, as they stood immediately before their amendment by the Finance Act, 2007, allowing the application to have been proceeded with, has been passed before the 1st day of June, 2007, but an order under the provisions of sub-section (*4*), as they stood immediately before their amendment by the Finance Act, 2007, was not passed before the 1st day of June, 2007, such application shall not be allowed to be further proceeded with unless the additional wealth-tax on the wealth disclosed in such application and the interest thereon, is, notwithstanding any extension of time already granted by the Settlement Commission, paid on or before the 31st day of July, 2007.";

(*iii*) for sub-sections (*3*), (*4*) and (*4A*), the following sub-sections shall be substituted with effect from the 1st day of June, 2007, namely:—

"(*3*) The Settlement Commission, in respect of—

(*i*) an application which has not been declared invalid under sub-section (*2C*); or

(*ii*) an application referred to in sub-section (*2D*) which has been allowed to be further proceeded with under that sub-section,

may call for the records from the Commissioner and after examination of such records, if the Settlement Commission is of the opinion that any further enquiry or investigation in the matter is necessary, it may direct the Commissioner to make or cause to be made such further enquiry or investigation and furnish a report on the matters covered by the application and any other matter relating to the case, and the Commissioner shall furnish the report within a period of ninety days of the receipt of communication from the Settlement Commission:

Provided that where the Commissioner does not furnish his report within the aforesaid period, the Settlement Commission may proceed to pass an order under sub-section (*4*) without such report.

(*4*) After examination of the records and the report of the Commissioner, if any, received under—

(*i*) sub-section (*2B*) or sub-section (*3*), or

(*ii*) the provisions of sub-section (*1*), as they stood immediately before their amendment by the Finance Act, 2007,

and after giving an opportunity to the applicant and to the Commissioner to be heard, either in person or through a representative duly authorised in this behalf, and after examining such further evidence as may be placed before it or obtained by it, the Settlement Commission may, in accordance with the provisions of this Act, pass such order, as it thinks fit, on the matters covered by the application and any other matter relating to the case not covered by the application, but referred to in the report of the Commissioner.

(*4A*) The Settlement Commission shall pass an order under sub-section (*4*),—

(*i*) in respect of an application referred to in sub-section (*2A*) or sub-section (*2D*), on or before the 31st day of March, 2008;

(*ii*) in respect of an application made on or after the 1st day of June, 2007, within twelve months from the end of the month in which the application was made.";

(*iv*) in sub-section (*6A*), for the words "fifteen per cent. per annum", the words "one and one-fourth per cent. for every month or part of a month" shall be substituted with effect from the 1st day of April, 2008.

87. In section 22DD of the Wealth-tax Act, in sub-section (*2*), in the proviso, the words ", so, however, that the total period of extension shall not in any case exceed two years" shall be omitted with effect from the 1st day of June, 2007. Amendment of section 22DD.

88. In section 22E of the Wealth-tax Act, after the proviso, the following proviso shall be inserted with effect from the 1st day of June, 2007, namely:— Amendment of section 22E.

"Provided further that no proceeding shall be reopened by the Settlement Commission under this section in a case where an application under section 22C is made on or after the 1st day of June, 2007.".

89. In section 22F of the Wealth-tax Act, in sub-section (*2*), the following provisos shall be inserted with effect from the 1st day of June, 2007, namely:— Amendment of section 22F.

"Provided that where an application has been made under section 22C on or after the 1st day of June, 2007, the Settlement Commission shall have such exclusive jurisdiction from the date on which the application was made:

Provided further that where—

(*i*) an application made on or after the 1st day of June, 2007, is rejected under sub-section (*1*) of section 22D; or

(*ii*) an application is not allowed to be proceeded with under sub-section (*2A*) of section 22D, or, as the case may be, is declared invalid under sub-section (*2C*) of that section; or

(*iii*) an application is not allowed to be further proceeded with under sub-section (*2D*) of section 22D,

the Settlement Commission, in respect of such application shall have such exclusive jurisdiction up to the date on which the application is rejected, or, not allowed to be proceeded with, or, declared invalid, or, not allowed to be further proceeded with, as the case may be.".

Amendment of section 22H.

90. In section 22H of the Wealth-tax Act, in sub-section (*1*), after the proviso, the following proviso shall be inserted with effect from the 1st day of June, 2007, namely:—

"Provided further that the Settlement Commission shall not grant immunity from prosecution for any offence under the Indian Penal Code or under any Central Act other than this Act and the Income-tax Act, 1961 to a person who makes an application under section 22C on or after the 1st day of June, 2007.". 45 of 1860. 43 of 1961.

Insertion of new sections 22HA and 22HAA.

91. After section 22H of the Wealth-tax Act, the following sections shall be inserted with effect from the 1st day of June, 2007, namely:—

Abatement of proceedings before Settlement Commission.

'22HA. (*1*) Where,—

(*i*) an application made under section 22C on or after the 1st day of June, 2007 has been rejected under sub-section (*1*) of section 22D; or

(*ii*) an application made under section 22C has not been allowed to be proceeded with under sub-section (*2A*) or further proceeded with under sub-section (*2D*) of section 22D; or

(*iii*) an application made under section 22C has been declared as invalid under sub-section (*2C*) of section 22D; or

(*iv*) in respect of any other application made under section 22C, an order under sub-section (*4*) of section 22D has not been passed within the time or period specified under sub-section (*4A*) of section 22D,

the proceedings before the Settlement Commission shall abate on the specified date.

Explanation.—For the purposes of this sub-section, "specified date" means—

(*a*) in respect of an application referred to in clause (*i*), the date on which the application was rejected;

(*b*) in respect of an application referred to in clause (*ii*), the 31st day of July, 2007;

(*c*) in respect of an application referred to in clause (*iii*), the last day of the month in which the application was declared invalid;

(*d*) in respect of an application referred to in clause (*iv*), on the date on which the time or period specified in sub-section (*4A*) of section 22D expires.

(*2*) Where a proceeding before the Settlement Commission abates, the Assessing Officer, or, as the case may be, any other wealth-tax authority before whom the proceeding at the time of making the application was pending, shall dispose of the case in accordance with the provisions of this Act as if no application under section 22C had been made.

(*3*) For the purposes of sub-section (*2*), the Assessing Officer, or, as the case may be, other wealth-tax authority, shall be entitled to use all the material and other information produced by the assessee before the Settlement Commission or the results of the inquiry held or evidence recorded by the Settlement Commission in the course of the proceedings before it, as if such material, information, inquiry and evidence had been produced before the Assessing Officer or other wealth-tax authority or held or recorded by him in the course of the proceedings before him.

(*4*) For the purposes of the time-limit under sections 17A, 32 and 35 and for the purposes of payment of interest under section 34A, in case referred to in sub-section (*2*), the period commencing on and from the date of a application to the Settlement Commission under section 22C and ending with "specified date" referred to in sub-section (*1*) shall be excluded.

22HAA. Where an application made under section 22C on or after the 1st day of June, 2007, is rejected under sub-section (*1*) of section 22D, or any other application made under section 22C is not allowed to be proceeded with under sub-section (*2A*) of section 22D or is declared invalid under sub-section (*2C*) of section 22D or has not been allowed to be further proceeded with under sub-section (*2D*) of section 22D or an order under sub-section (*4*) of section 22D has not been passed within the time or period specified under sub-section (*4A*) of section 22D, the Assessing Officer shall allow the credit for the tax and interest paid on or before the date of making the application or during the pendency of the case before the Settlement Commission.'. Credit for tax paid in case of abatement of proceedings.

92. For section 22K of the Wealth-tax Act, the following section shall be substituted with effect from the 1st day of June, 2007, namely:— Substitution of new section for section 22K.

"22K. (*1*) Where,— Bar on subsequent application for settlement.

(*i*) an order of settlement passed under sub-section (*4*) of section 22D provides for the imposition of a penalty on the person who made the application under section 22C for settlement, on the ground of concealment of particulars of his net wealth; or

(*ii*) after the passing of an order of settlement under the said sub-section (*4*) in relation to a case, such person is convicted of any offence under Chapter VIII in relation to that case; or

(*iii*) the case of any such person was sent back to the Assessing Officer by the Settlement Commission on or before the 1st day of June, 2002,

then, he shall not be entitled to apply for settlement under section 22C in relation to any other matter.

(*2*) Where a person has made an application under section 22C on or after the 1st day of June, 2007 and if such application has been allowed to be proceeded with under sub-section (*1*) of section 22D, such person shall not be subsequently entitled to make an application under section 22C.".

93. After section 42C of the Wealth-tax Act, the following section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of October, 1975, namely:— Insertion of new section 42D.

"42D. Where any books of account or other documents, articles or things including money are found in the possession or control of any person in the course of a search under section 37A, it may, in any proceeding under this Act, be presumed that— Presumption as to assets, books of account, etc.

(*i*) such books of account or other documents, articles or things including money belong to such person;

(*ii*) the contents of such books of account or other documents are true; and

(*iii*) the signature and every other part of such books of account or other documents which purport to be in the handwriting of any particular person or which may reasonably be assumed to have been signed by, or to be in the handwriting of, any particular person, are in that person's handwriting, and in the case of a document stamped, executed or attested, that it was duly stamped and executed or attested by the person by whom it purports to have been so executed or attested.".

CHAPTER IV

INDIRECT TAXES

Customs

Amendment of section 2.

94. In section 2 of the Customs Act, 1962 (hereinafter referred to as the Customs Act), in clause (*41*), for the words, brackets and figures "sub-section (*1*) of section 14", the words, brackets and figures "sub-section (*1*) or sub-section (*2*) of section 14" shall be substituted with effect from such date as the Central Government may, by notification in the Official Gazette, appoint. 52 of 1962.

Substitution of new section for section 14.

95. For section 14 of the Customs Act, the following section shall be substituted with effect from such date as the Central Government may, by notification in the Official Gazette, appoint, namely:—

Valuation of goods.

'14. (*1*) For the purposes of the Customs Tariff Act, 1975, or any other law for the time being in force, the value of the imported goods and export goods shall be the transaction value of such goods, that is to say, the price actually paid or payable for the goods when sold for export to India for delivery at the time and place of importation, or as the case may be, for export from India for delivery at the time and place of exportation, where the buyer and seller of the goods are not related and price is the sole consideration for the sale subject to such other conditions as may be specified in the rules made in this behalf: 51 of 1975.

Provided that such transaction value in the case of imported goods shall include, in addition to the price as aforesaid, any amount paid or payable for costs and services, including commissions and brokerage, engineering, design work, royalties and licence fees, costs of transportation to the place of importation, insurance, loading, unloading and handling charges to the extent and in the manner specified in the rules made in this behalf:

Provided further that the rules made in this behalf may provide for,—

(*i*) the circumstances in which the buyer and the seller shall be deemed to be related;

(*ii*) the manner of determination of value in respect of goods when there is no sale, or the buyer and the seller are related, or price is not the sole consideration for the sale or in any other case;

(*iii*) the manner of acceptance or rejection of value declared by the importer or exporter, as the case may be, where the proper officer has reason to doubt the truth or accuracy of such value, and determination of value for the purposes of this section:

Provided also that such price shall be calculated with reference to the rate of exchange as in force on the date on which a bill of entry is presented under section 46, or a shipping bill of export, as the case may be, is presented under section 50.

(*2*) Notwithstanding anything contained in sub-section (*1*), if the Board is satisfied that it is necessary or expedient so to do, it may, by notification in the Official Gazette, fix tariff values for any class of imported goods or export goods, having regard to the trend of value of such or like goods, and where any such tariff values are fixed, the duty shall be chargeable with reference to such tariff value.

Explanation.—For the purposes of this section—

(*a*) "rate of exchange" means the rate of exchange—

(*i*) determined by the Board, or

(*ii*) ascertained in such manner as the Board may direct,

for the conversion of Indian currency into foreign currency or foreign currency into Indian currency;

(*b*) "foreign currency" and "Indian currency" have the meanings respectively assigned to them in clause (*m*) and clause (*q*) of section 2 of the Foreign Exchange Management Act, 1999.'.

42 of 1999.

96. In section 27 of the Customs Act, in sub-section (*1*), in clause (*b*), after the third proviso, the following proviso shall be inserted, namely:— Amendment of section 27.

"Provided also that where the duty becomes refundable as a consequence of judgment, decree, order or direction of the appellate authority, Appellate Tribunal or any court, the limitation of one year or six months, as the case may be, shall be computed from the date of such judgment, decree, order or direction.".

97. In section 28E of the Customs Act, in clause (*c*), the following *Explanation* shall be inserted at the end, namely:— Amendment of section 28E.

'*Explanation*:—For the purposes of this clause, "joint venture in India" means a contractual arrangement whereby two or more persons undertake an economic activity which is subject to joint control and one or more of the participants or partners or equity holders is a non-resident having substantial interest in such arrangement;'.

98. In section 75A of the Customs Act, for sub-section (*2*), the following sub-section shall be substituted, namely:— Amendment of section 75A.

"(*2*) Where any drawback has been paid to the claimant erroneously or it becomes otherwise recoverable under this Act or the rules made thereunder, the claimant shall, within a period of two months from the date of demand, pay in addition to the said amount of drawback, interest at the rate fixed under section 28AB and the amount of interest shall be calculated for the period beginning from the date of payment of such drawback to the claimant till the date of recovery of such drawback.".

99. Chapter XA of the Customs Act shall be omitted. Omission of Chapter XA.

100. In section 127A of the Customs Act, with effect from the 1st day of June, 2007, for clause (*b*), the following clause shall be substituted, namely:— Amendment of section 127A.

'(*b*) "case" means any proceeding under this Act or any other Act for the levy, assessment and collection of customs duty, pending before an adjudicating authority on the date on which an application under sub-section (*1*) of section 127B is made:

Provided that when any proceeding is referred back in any appeal or revision, as the case may be, by any court, Appellate Tribunal or any other authority, to the adjudicating authority for a fresh adjudication or decision, as the case may be, then such proceeding shall not be deemed to be a proceeding pending within the meaning of this clause;'.

101. In section 127B of the Customs Act, with effect from the 1st day of June, 2007, for sub-section (*1*), the following sub-sections shall be substituted, namely:— Amendment of section 127B.

"(*1*) Any importer, exporter or any other person (hereinafter referred to as the applicant in this Chapter) may, in respect of a case, relating to him make an application, before adjudication to the Settlement Commission to have the case settled, in such form and in such manner as may be specified by rules, and containing a full and true disclosure of his duty liability which has not been disclosed before the proper officer, the manner in which such liability has been incurred, the additional amount of customs duty accepted to be payable by him and such other particulars as may be specified by rules including the particulars of such dutiable goods in respect of which he admits short levy on account of misclassification, under-valuation or inapplicability of exemption notification but excluding the goods not included in the entry made under this Act and such application shall be disposed of in the manner hereinafter provided:

Provided that no such application shall be made unless,—

(*a*) the applicant has filed a bill of entry, or a shipping bill, in respect of import or export of such goods, as the case may be, and in relation to such bill of entry or shipping bill, a show cause notice has been issued to him by the proper officer;

(*b*) the additional amount of duty accepted by the applicant in his application exceeds three lakh rupees; and

(*c*) the applicant has paid the additional amount of customs duty accepted by him along with interest due under section 28AB:

Provided further that no application shall be entertained by the Settlement Commission under this sub-section in cases which are pending in the Appellate Tribunal or any court:

Provided also that no application under this sub-section shall be made in relation to goods to which section 123 applies or to goods in relation to which any offence under the Narcotic Drugs and Psychotropic Substances Act, 1985 has been committed: 61 of 1985.

Provided also that no application under this sub-section shall be made for the interpretation of the classification of the goods under the Customs Tariff Act, 1975. 51 of 1975.

(*1A*) Notwithstanding anything contained in sub-section (*1*), where an application was made under sub-section (*1*) before the 1st day of June, 2007 but an order under sub section (*1*) of section 127C has not been made before the said date, the applicant shall within a period of thirty days from the 1st day of June, 2007 pay the accepted duty liability failing which his application shall be liable to be rejected.".

Substitution of new section for section 127C.

102. For section 127C of the Customs Act, with effect from the 1st day of June, 2007, the following section shall be substituted, namely:—

Procedure on receipt of an application under section 127B.

"127C. (*1*) On receipt of an application under section 127B, the Settlement Commission shall, within seven days from the date of receipt of the application, issue a notice to the applicant to explain in writing as to why the application made by him should be allowed to be proceeded with and after taking into consideration the explanation provided by the applicant, the Settlement Commission, shall, within a period of fourteen days from the date of the notice, by an order, allow the application to be proceeded with or reject the application, as the case may be, and the proceedings before the Settlement Commission shall abate on the date of rejection:

Provided that where no notice has been issued or no order has been passed within the aforesaid period by the Settlement Commission, the application shall be deemed to have been allowed to be proceeded with.

(*2*) A copy of every order under sub-section (*1*) shall be sent to the applicant and to the Commissioner of Customs having jurisdiction.

(*3*) Where an application is allowed or deemed to have been allowed to be proceeded with under sub-section (*1*), the Settlement Commission shall, within seven days from the date of order under sub-section (*1*), call for a report along with the relevant records from the Commissioner of Customs having jurisdiction and the Commissioner shall furnish the report within a period of thirty days of the receipt of communication from the Settlement Commission:

Provided that where the Commissioner does not furnish the report within the aforesaid period of thirty days, the Settlement Commission shall proceed further in the matter without the report of the Commissioner.

(*4*) Where a report of the Commissioner called for under sub-section (*3*) has been furnished within the period specified in that sub-section, the Settlement Commission may, after examination of such report, if it is of the opinion that any further enquiry or investigation in the matter is necessary, direct, for reasons to be recorded in writing, the Commissioner (Investigation) within fifteen days of the receipt of the report, to make or cause to be made such further enquiry or investigation and furnish a report within a period of ninety days of the receipt of the communication from the Settlement Commission, on the matters covered by the application and any other matter relating to the case:

Provided that where the Commissioner (Investigation) does not furnish the report within the aforesaid period, the Settlement Commission shall proceed to pass an order under sub-section (*5*) without such report.

(*5*) After examination of the records and the report of the Commissioner of Customs received under sub-section (*3*), and the report, if any, of the Commissioner (Investigation) of the Settlement Commission under sub-section (*4*), and after giving an opportunity to the applicant and to the Commissioner of Customs having jurisdiction to be heard, either in person or through a representative duly authorised in this behalf, and after examining such further evidence as may be placed before it or obtained by it, the Settlement Commission may, in accordance with the provisions of this Act, pass such order as it thinks fit on the matters covered by the application and any other matter relating to the case not covered by the application, but referred to in the report of the Commissioner of Customs and Commissioner (Investigation) under sub-section (*3*) or sub-section (*4*).

(*6*) An order under sub-section (*5*) shall not be passed in respect of an application filed on or before the 31st day of May, 2007, later than the 29th February, 2008 and in respect of an application made on or after the 1st day of June, 2007, after nine months from the last day of the month in which the application was made, failing which the settlement proceedings shall abate, and the adjudicating authority before whom the proceeding at the time of making the application was pending, shall dispose of the case in accordance with the provisions of this Act as if no application under section 127B had been made.

1 of 1944. (*7*) Subject to the provisions of section 32A of the Central Excise Act, 1944, the materials brought on record before the Settlement Commission shall be considered by the Members of the concerned Bench before passing any order under sub-section (*5*) and, in relation to the passing of such order, the provisions of section 32D of the Central Excise Act, 1944 shall apply.

(*8*) The order passed under sub-section (*5*) shall provide for the terms of settlement including any demand by way of duty, penalty or interest, the manner in which any sums due under the settlement shall be paid and all other matters to make the settlement effective and in case of rejection contain the reasons therefor and it shall also provide that the settlement shall be void if it is subsequently found by the Settlement Commission that it has been obtained by fraud or misrepresentation of facts:

Provided that the amount of settlement ordered by the Settlement Commission, shall not be less than the duty liability admitted by the applicant under section 127B.

(*9*) Where any duty, interest, fine and penalty payable in pursuance of an order under sub-section (*5*) is not paid by the applicant within thirty days of receipt of a copy of the order by him, the amount which remains unpaid, shall be recovered along with interest due thereon, as the sums due to the Central Government by the proper officer having jurisdiction over the applicant in accordance with the provisions of section 142.

(*10*) Where a settlement becomes void as provided under sub-section (*8*), the proceedings with respect to the matters covered by the settlement shall be deemed to have been revived from the stage at which the application was allowed to be proceeded with by the Settlement Commission and the proper officer having jurisdiction may, notwithstanding anything contained in any other provision of this Act, complete such proceedings at any time before the expiry of two years from the date of the receipt of communication that the settlement became void.".

Amendment of section 127E.

103. In section 127E of the Customs Act, after the proviso, the following proviso shall be inserted with effect from the 1st day of June, 2007, namely:—

"Provided further that no proceeding shall be reopened by the Settlement Commission under this section in a case where an application under section 127B is made on or after the 1st day of June, 2007.".

Amendment of section 127F.

104. In section 127F of the Customs Act, in sub-section (*2*), for the brackets and figures "(*7*)" and "(*6*)", the brackets and figures "(*5*)" and "(*4*)" shall respectively be substituted with effect from the 1st day of June, 2007.

Amendment of section 127H.

105. In section 127H of the Customs Act, with effect from the 1st day of June, 2007,—

(*i*) in sub-section (*1*),—

(*a*) for the words "or under the Indian Penal Code or under any other Central Act for the time being in force and also either wholly or in part from the imposition of any penalty, fine and interest", the words "and also either wholly or in part from the imposition of any penalty and fine" shall be substituted; 45 of 1860.

(*b*) after the proviso, the following *Explanation* shall be inserted, namely:—

"*Explanation.*—For the removal of doubts, it is hereby declared that the application filed before the Settlement Commission on or before the 31st day of May, 2007 shall be disposed of as if the amendment in this section had not come into force.";

(*ii*) in sub-section (*2*), for the words, brackets, figures and letter "sub-section (*7*) of section 127C within the time specified in such order or within such further time as may be allowed by the Settlement Commission", the words, brackets, figures and letter "sub-section (*5*) of section 127C within the time specified in such order" shall be substituted.

Amendment of section 127J.

106. In section 127J of the Customs Act, for the brackets and figure "(*7*)", the brackets and figure "(*5*)" shall be substituted with effect from the 1st day of June, 2007.

Amendment of section 127K.

107. In section 127K of the Customs Act, for the brackets and figure "(*7*)", the brackets and figure "(*5*)" shall be substituted with effect from the 1st day of June, 2007.

Amendment of section 127L.

108. Section 127L of the Customs Act shall be renumbered as sub-section (*1*) thereof and,—

(*i*) in sub-section (*1*) as so renumbered, for the word "Where", the words, figures and letters "Where, before the 1st day of June, 2007" shall be substituted;

(*ii*) after sub-section (*1*) as so renumbered, the following sub-section shall be inserted with effect from the 1st day of June, 2007, namely:—

"(*2*) Where an applicant has made an application under sub-section (*1*) of section 127B, on or after the 1st day of June, 2007 and if such application has been allowed to be proceeded with under sub-section (*1*) of section 127C, such applicant shall not be entitled to apply for settlement under section 127B in relation to any other matter:

Provided that such applicant shall not be prevented from filing an application for settlement if the issue in the subsequent application is, but for the period of dispute and amount, identical to the issue in respect of which the earlier application is pending before the Settlement Commission.".

109. Section 127MA of the Customs Act shall be omitted with effect from the 1st day of June, 2007. Omission of section 127MA.

110. In section 129 of the Customs Act, after sub-section (*5*), the following sub-section shall be inserted, namely:— Amendment of section 129.

"(*6*) On ceasing to hold office, the President, Vice-President or other Member shall not be entitled to appear, act or plead before the Appellate Tribunal.".

111. In section 129D of the Customs Act,— Amendment of section 129D.

(*i*) for sub-section (*3*), the following sub-section shall be substituted, namely:—

"(*3*) The Committee of Chief Commissioners of Customs or the Commissioner of Customs, as the case may be, shall make order under sub-section (*1*) or sub-section (*2*) within a period of three months from the date of communication of the decision or order of the adjudicating authority.";

(*ii*) in sub-section (*4*), for the words "three months", the words "one month" shall be substituted.

112. In section 135 of the Customs Act, for sub-section (*1*), the following sub-section shall be substituted, namely:— Amendment of section 135.

"(*1*) Without prejudice to any action that may be taken under this Act, if any person—

(*a*) is in relation to any goods in any way knowingly concerned in misdeclaration of value or in any fraudulent evasion or attempt at evasion of any duty chargeable thereon or of any prohibition for the time being imposed under this Act or any other law for the time being in force with respect to such goods; or

(*b*) acquires possession of or is in any way concerned in carrying, removing, depositing, harbouring, keeping, concealing, selling or purchasing or in any other manner dealing with any goods which he knows or has reason to believe are liable to confiscation under section 111 or section 113, as the case may be; or

(*c*) attempts to export any goods which he knows or has reason to believe are liable to confiscation under section 113; or

(*d*) fraudulently avails of or attempts to avail of drawback or any exemption from duty provided under this Act in connection with export of goods,

he shall be punishable, —

(*i*) in the case of an offence relating to,—

(*A*) any goods the market price of which exceeds one crore of rupees; or

(*B*) the evasion or attempted evasion of duty exceeding thirty lakh of rupees; or

(*C*) such categories of prohibited goods as the Central Government may, by notification in the Official Gazette, specify; or

(*D*) fraudulently availing of or attempting to avail of drawback or any exemption from duty referred to in clause (*d*), if the amount of drawback or exemption from duty exceeds thirty lakh of rupees,

with imprisonment for a term which may extend to seven years and with fine:

Provided that in the absence of special and adequate reasons to the contrary to be recorded in the judgment of the court, such imprisonment shall not be for less than one year;

(*ii*) in any other case, with imprisonment for a term which may extend to three years, or with fine, or with both.".

Amendment of section 156.

113. In section 156 of the Customs Act, in sub-section (*2*), for clause (*a*), the following clause shall be substituted with effect from such date as the Central Government may, by notification in the Official Gazette, appoint, namely:—

"(*a*) the manner of determining the transaction value of the imported goods and export goods under sub-section (*1*) of section 14;".

Customs tariff

Amendment of First Schedule and Second Schedule.

114. In the Customs Tariff Act, 1975 (hereinafter referred to as the Customs Tariff Act),— 51 of 1975.

(*i*) the First Schedule shall be amended in the manner specified in the Second Schedule;

(*ii*) the Second Schedule shall be amended in the manner specified in the Third Schedule.

Excise

Amendment of section 3.

115. In section 3 of the Central Excise Act, 1944 (hereinafter referred to as the Central Excise Act), in sub-section (*1*),— 1 of 1944.

(*i*) in the proviso, clause (*i*) shall be omitted;

(*ii*) in *Explanation* 2,—

(*a*) clause (*i*) shall be omitted;

(*b*) for clause (*iii*), the following clause shall be substituted, namely:—

'(*iii*) "Special Economic Zone" has the meaning assigned to it in clause (*za*) of section 2 of the Special Economic Zones Act, 2005.'. 28 of 2005.

Insertion of new section 5B.

116. After section 5A of the Central Excise Act, the following section shall be inserted, namely:—

Non-reversal of CENVAT credit.

"5B. Where an assessee has paid duty of excise on a final product and has been allowed credit of the duty or tax or cess paid on inputs, capital goods and input services used in making of the said product, but subsequently the process of making the said product is held by the court as not chargeable to excise duty, the Central Government may, by notification, order for non-reversal of such credit allowed to the assessee subject to such conditions as may be specified in the said notification:

Provided that the order for non-reversal of credit shall not apply where an assessee has preferred a claim for refund of excise duty paid by him:

Provided further that the Central Government may also specify in the notification referred to above for non-reversal of credit, if any, taken by the buyer of the said product.".

Amendment of section 11B.

117. In section 11B of the Central Excise Act, in the *Explanation*, in clause (*B*), after sub-clause (*eb*), the following sub-clause shall be inserted, namely:—

"(*ec*) in case where the duty becomes refundable as a consequence of judgment, decree, order or direction of appellate authority, Appellate Tribunal or any court, the date of such judgment, decree, order or direction;".

118. In section 23A of the Central Excise Act, in clause (*c*), the following *Explanation* shall be inserted at the end, namely:— Amendment of section 23A.

'*Explanation.*—For the purposes of this clause, "joint venture in India" means a contractual arrangement whereby two or more persons undertake an economic activity which is subject to joint control and one or more of the participants or partners or equity holders is a non-resident having substantial interest in such arrangement;'.

119. In section 31 of the Central Excise Act, with effect from the 1st day of June, 2007, for clause (*c*), the following clause shall be substituted, namely:— Amendment of section 31.

'(*c*) "case" means any proceeding under this Act or any other Act for the levy, assessment and collection of excise duty, pending before an adjudicating authority on the date on which an application under sub-section (*1*) of section 32E is made:

Provided that when any proceeding is referred back in any appeal or revision, as the case may be, by any court, Appellate Tribunal or any other authority, to the adjudicating authority for a fresh adjudication or decision, as the case may be, then such proceeding shall not be deemed to be a proceeding pending within the meaning of this clause;'.

120. In section 32A of the Central Excise Act, after the proviso to sub-section (*6*), the following proviso shall be inserted, namely:— Amendment of section 32A.

"Provided further that at any stage of the hearing of any such case or matter, referred to in the first proviso, the Chairman may, if he thinks that the case or matter is of such a nature that it ought to be heard by a Bench consisting of three Members, constitute such Bench and if Vice-Chairman is not one of the Members, the senior among the Members shall act as the presiding officer of such Bench.".

121. In section 32E of the Central Excise Act, with effect from the 1st day of June, 2007, for sub-section (*1*), the following sub-sections shall be substituted, namely:— Amendment of section 32E.

"(*1*) An assessee may, in respect of a case relating to him, make an application, before adjudication, to the Settlement Commission to have the case settled, in such form and in such manner as may be prescribed and containing a full and true disclosure of his duty liability which has not been disclosed before the Central Excise Officer having jurisdiction, the manner in which such liability has been derived, the additional amount of excise duty accepted to be payable by him and such other particulars as may be prescribed including the particulars of such excisable goods in respect of which he admits short levy on account of misclassification, under-valuation, inapplicability of exemption notification or CENVAT credit but excluding the goods in respect of which no proper record has been maintained by the assessee in his daily stock register and any such application shall be disposed of in the manner hereinafter provided:

Provided that no such application shall be made unless,—

(*a*) the applicant has filed returns showing production, clearance and central excise duty paid in the prescribed manner;

(*b*) a show cause notice for recovery of duty issued by the Central Excise Officer has been received by the applicant;

(*c*) the additional amount of duty accepted by the applicant in his application exceeds three lakh rupees; and

(*d*) the applicant has paid the additional amount of excise duty accepted by him along with interest due under section 11AB:

Provided further that no application shall be entertained by the Settlement Commission under this sub-section in cases which are pending with the Appellate Tribunal or any court :

Provided also that no application under this sub-section shall be made for the interpretation of the classification of excisable goods under the Central Excise Tariff Act, 1985. 5 of 1986.

(*1A*) Notwithstanding anything contained in sub-section (*1*), where an application was made under sub-section (*1*), before the 1st day of June, 2007 but an order under sub-section (*1*) of section 32F has not been made before the said date or payment of amount so ordered by the Settlement Commission under sub-section (*1*) of section 32F has not been made, the applicant shall within a period of thirty days from the 1st day of June, 2007, pay the accepted duty liability failing which his application shall be liable to be rejected.".

Substitution of new section for section 32F.

122. For section 32F of the Central Excise Act, with effect from the 1st day of June, 2007, the following section shall be substituted, namely:—

Procedure on receipt of an application under section 32E.

"32F. (*1*) On receipt of an application under sub-section (*1*) of section 32E, the Settlement Commission shall, within seven days from the date of receipt of the application, issue a notice to the applicant to explain in writing as to why the application made by him should be allowed to be proceeded with, and after taking into consideration the explanation provided by the applicant, the Settlement Commission, shall, within a period of fourteen days from the date of the notice, by an order, allow the application to be proceeded with, or reject the application as the case may be, and the proceedings before the Settlement Commission shall abate on the date of rejection:

Provided that where no notice has been issued or no order has been passed within the aforesaid period by the Settlement Commission, the application shall be deemed to have been allowed to be proceeded with.

(*2*) A copy of every order under sub-section (*1*), shall be sent to the applicant and to the Commissioner of Central Excise having jurisdiction:

(*3*) Where an application is allowed or deemed to have been allowed to be proceeded with under sub-section (*1*), the Settlement Commission shall, within seven days from the date of order under sub-section (*1*), call for a report along with the relevant records from the Commissioner of Central Excise having jurisdiction and the Commissioner shall furnish the report within a period of thirty days of the receipt of communication from the Settlement Commission:

Provided that where the Commissioner does not furnish the report within the aforesaid period of thirty days, the Settlement Commission shall proceed further in the matter without the report of the Commissioner.

(*4*) Where a report of the Commissioner called for under sub-section (*3*) has been furnished within the period specified in that sub-section, the Settlement Commission may, after examination of such report, if it is of the opinion that any further enquiry or investigation in the matter is necessary, direct, for reasons to be recorded in writing, the Commissioner (Investigation) within fifteen days of the receipt of the report, to make or cause to be made such further enquiry or investigation and furnish a report within a period of ninety days of the receipt of the communication from the Settlement Commission, on the matters covered by the application and any other matter relating to the case:

Provided that where the Commissioner (Investigation) does not furnish the report within the aforesaid period, the Settlement Commission shall proceed to pass an order under sub-section (*5*) without such report.

(5) After examination of the records and the report of the Commissioner of Central Excise received under sub-section (3), and the report, if any, of the Commissioner (Investigation) of the Settlement Commission under sub-section (4), and after giving an opportunity to the applicant and to the Commissioner of Central Excise having jurisdiction to be heard, either in person or through a representative duly authorised in this behalf, and after examining such further evidence as may be placed before it or obtained by it, the Settlement Commission may, in accordance with the provisions of this Act, pass such order as it thinks fit on the matters covered by the application and any other matter relating to the case not covered by the application, but referred to in the report of the Commissioner of Central Excise and Commissioner (Investigation) under sub-section (3) or sub-section (4).

(6) An order under sub-section (5) shall not be passed in respect of an application filed on or before the 31st day of May, 2007, later than the 29th day of February, 2008 and in respect of an application made on or after the 1st day of June, 2007, after nine months from the last day of the month in which the application was made, failing which the settlement proceedings shall abate, and the adjudicating authority before whom the proceeding at the time of making the application was pending, shall dispose of the case in accordance with the provisions of this Act as if no application under section 32E had been made.

(7) Subject to the provisions of section 32A, the materials brought on record before the Settlement Commission shall be considered by the Members of the concerned Bench before passing any order under sub-section (5) and, in relation to the passing of such order, the provisions of section 32D shall apply.

(8) The order passed under sub-section (5) shall provide for the terms of settlement including any demand by way of duty, penalty or interest, the manner in which any sums due under the settlement shall be paid and all other matters to make the settlement effective and in case of rejection contain the reasons therefor and it shall also provide that the settlement shall be void if it is subsequently found by the Settlement Commission that it has been obtained by fraud or misrepresentation of facts:

Provided that the amount of settlement ordered by the Settlement Commission shall not be less than the duty liability admitted by the applicant under section 32E.

(9) Where any duty, interest, fine and penalty payable in pursuance of an order under sub-section (5) is not paid by the assessee within thirty days of receipt of a copy of the order by him, the amount which remains unpaid, shall be recovered along with interest due thereon, as the sums due to the Central Government by the Central Excise Officer having jurisdiction over the assessee in accordance with the provisions of section 11.

(10) Where a settlement becomes void as provided under sub-section (8), the proceedings with respect to the matters covered by the settlement shall be deemed to have been revived from the stage at which the application was allowed to be proceeded with by the Settlement Commission and the Central Excise Officer having jurisdiction may, notwithstanding anything contained in any other provision of this Act, complete such proceedings at any time before the expiry of two years from the date of the receipt of communication that the settlement became void.".

Amendment of section 32H.

123. In section 32H of the Central Excise Act, after the proviso, the following proviso shall be inserted with effect from the 1st day of June, 2007, namely:—

"Provided further that no proceeding shall be reopened by the Settlement Commission under this section in a case where an application under section 32E is made on or after the 1st day of June, 2007.".

Amendment of section 32-I.

124. In section 32-I of the Central Excise Act, in sub-section (*2*), for the brackets and figures "(*7*)" and "(*6*)", the brackets and figures "(*5*)" and "(*4*)" shall respectively be substituted with effect from the 1st day of June, 2007.

Amendment of section 32K.

125. In section 32K of the Central Excise Act, with effect from the 1st day of June, 2007,—

(*i*) in sub-section (*1*),—

(*a*) for the words "or under the Indian Penal Code or under any other Central Act for the time being in force and also either wholly or in part from the imposition of any penalty, fine and interest", the words, "and also either wholly or in part from the imposition of any penalty and fine" shall be substituted; 45 of 1860.

(*b*) after the proviso, the following *Explanation* shall be inserted, namely:—

"*Explanation.*—For the removal of doubts, it is hereby declared that applications filed before the Settlement Commission on or before the 31st day of May, 2007 shall be disposed of as if the amendment in this section had not come into force.";

(*ii*) in sub-section (*2*), for the words, brackets, figures and letter "sub-section (*7*) of section 32F within the time specified in such order or within such further time as may be allowed by the Settlement Commission", the words, brackets, figures and letter "sub-section (*5*) of section 32F within the time specified in such order" shall be substituted.

Amendment of section 32M.

126. In section 32M of the Central Excise Act, for the brackets and figure "(*7*)", the brackets and figure "(*5*)" shall be substituted with effect from the 1st day of June, 2007.

Amendment of section 32N.

127. In section 32N of the Central Excise Act, for the brackets and figure "(*7*)", the brackets and figure "(*5*)" shall be substituted with effect from the 1st day of June, 2007.

Amendment of section 32-O.

128. Section 32-O of the Central Excise Act shall be renumbered as sub-section (*1*) thereof and,—

(*i*) in sub-section (*1*) as so renumbered, for the word "Where", the words, figures and letters "Where, before the 1st day of June, 2007" shall be substituted;

(*ii*) after sub-section (*1*) as so renumbered, the following sub-section shall be inserted with effect from the 1st day of June, 2007, namely: –

"(*2*) Where an assessee has made an application under sub-section (*1*) of section 32E, on or after the 1st day of June, 2007 and if such application has been allowed to be proceeded with under sub-section (*1*) of section 32F, such assessee shall not be entitled to apply for settlement under section 32E in relation to any other matter:

Provided that such assessee shall not be prevented from filing an application for settlement if the issue in the subsequent application is, but for the period of dispute and amount, identical to the issue in respect of which the earlier application is pending before the Settlement Commission.".

Omission of section 32PA.

129. Section 32PA of the Central Excise Act shall be omitted with effect from the 1st day of June, 2007.

Amendment of section 35E.

130. In section 35E of the Central Excise Act,—

(*i*) for sub-section (*3*), the following sub-section shall be substituted, namely:—

"(*3*) The Committee of Chief Commissioners of Central Excise or the Commissioner of Central Excise, as the case may be, shall make order under sub-

section (*1*) or sub-section (*2*) within a period of three months from the date of communication of the decision or order of the adjudicating authority.";

(*ii*) in sub-section (*4*), for the words "three months", the words "one month" shall be substituted.

131. In section 35F of the Central Excise Act, after the second proviso, the following *Explanation* shall be inserted, namely:— Amendment of section 35F.

'*Explanation*.—For the purposes of this section "duty demanded" shall include,—

(*i*) amount determined under section 11D;

(*ii*) amount of erroneous CENVAT credit taken;

(*iii*) amount payable under rule 57CC of Central Excise Rules, 1944;

(*iv*) amount payable under rule 6 of CENVAT Credit Rules, 2001 or CENVAT Credit Rules, 2002 or CENVAT Credit Rules, 2004;

(*v*) interest payable under the provisions of this Act or the rules made thereunder.'.

132. In section 37 of the Central Excise Act,— Amendment of section 37.

(*i*) in sub-section (*4*), for the words "ten thousand rupees", the words "two thousand rupees" shall be substituted;

(*ii*) in sub-section (*5*), for the words "ten thousand rupees", the words "two thousand rupees" shall be substituted.

133. In the Central Excise Act,— Amendment of Third Schedule.

(*i*) the Third Schedule shall be amended in the manner specified in Part I of the Fourth Schedule; and

(*ii*) the Third Schedule except as amended in clause (*i*) shall also be amended with effect from such date as the Central Government may, by notification in the Official Gazette, appoint, in the manner specified in Part II of the Fourth Schedule.

Excise tariff

134. In the Central Excise Tariff Act, 1985, the First Schedule shall be amended in the manner specified in the Fifth Schedule. Amendment of First Schedule to Act 5 of 1986.

CHAPTER V

SERVICE TAX

135. In the Finance Act, 1994,— Amendment of Act 32 of 1994.

(*A*) in section 65, with effect from such date as the Central Government may, by notification in the Official Gazette, appoint,—

(*1*) in clause (*12*),—

(*a*) in sub-clause (*a*),—

(*i*) for the words "or any other person", the words "or commercial concern" shall be substituted;

(*ii*) in item (*i*), the following *Explanation* shall be inserted at the end, namely:—

'*Explanation.*—For the purposes of this item, "financial leasing" means a lease transaction where—

(*i*) contract for lease is entered into between two parties for leasing of a specific asset;

(*ii*) such contract is for use and occupation of the asset by the lessee;

(*iii*) the lease payment is calculated so as to cover the full cost of the asset together with the interest charges; and

(*iv*) the lessee is entitled to own, or has the option to own, the asset at the end of the lease period after making the lease payment;';

(*iii*) in item (*v*), for the words "custodial, depository and trust services, but does not include cash management", the words "custodial, depository and trust services" shall be substituted;

(*2*) for clause (*20*), the following clause shall be substituted, namely:—

'(*20*) "cab" means—

(*i*) a motorcab, or

(*ii*) a maxicab, or

(*iii*) any motor vehicle constructed or adapted to carry more than twelve passengers, excluding the driver, for hire or reward:

Provided that the maxicab referred to in sub-clause (*ii*) or motor vehicle referred to in sub-clause (*iii*) which is rented for use by an educational body imparting skill or knowledge or lessons on any subject or field, other than a commercial training or coaching centre, shall not be included within the meaning of cab;';

(*3*) after clause (*36a*), the following clauses shall be inserted, namely:—

'(*36b*) "design services" includes services provided in relation to designing of furniture, consumer products, industrial products, packages, logos, graphics, websites and corporate identity designing and production of three dimensional models;

(*36c*) "development and supply of content" includes development and supply of mobile value added services, music, movie clips, ring tones, wall paper, mobile games, data, whether or not aggregated, information, news and animation films;';

(*4*) in clause (*40*), for the words "sports or any other event", the words "sports, marriage or any other event" shall be substituted;

(*5*) clause (*60*) shall be omitted;

(*6*) in clause (*64*), the following *Explanation* shall be inserted at the end, namely:—

'*Explanation.*—For the removal of doubts, it is hereby declared that for the purposes of this clause, "goods" includes computer software;';

(*7*) for clause (*65*), the following clause shall be substituted, namely:—

'(*65*) "management or business consultant" means any person who is engaged in providing any service, either directly or indirectly, in connection with the management of any organisation or business in any

manner and includes any person who renders any advice, consultancy or technical assistance, in relation to financial management, human resources management, marketing management, production management, logistics management, procurement and management of information technology resources or other similar areas of management;';

(*8*) after clause (*66*), the following *Explanation* shall be inserted, namely:—

'*Explanation*.—For the purposes of this clause, "social function" includes marriage;';

(*9*) after clause (*67*), the following *Explanation* shall be inserted, namely:—

'*Explanation*.—For the purposes of this clause, "social function" includes marriage;';

(*10*) after clause (*77a*), the following *Explanation* shall be inserted, namely:—

'*Explanation*.—For the purposes of this clause, "social function" includes marriage;';

(*11*) after clause (*90*), the following clause shall be inserted, namely:—

'(*90a*) "renting of immovable property" includes renting, letting, leasing, licensing or other similar arrangements of immovable property for use in the course or furtherance of business or commerce but does not include —

(*i*) renting of immovable property by a religious body or to a religious body; or

(*ii*) renting of immovable property to an educational body, imparting skill or knowledge or lessons on any subject or field, other than a commercial training or coaching centre.

Explanation.—For the purposes of this clause, "for use in the course or furtherance of business or commerce" includes use of immovable property as factories, office buildings, warehouses, theatres, exhibition halls and multiple-use buildings;';

(*12*) clause (*104*) shall be omitted;

(*13*) in clause (*105*),—

(*a*) sub-clauses (*b*) and (*c*) shall be omitted;

(*b*) in sub-clause (*g*), for the words "but not in the discipline of computer hardware engineering or computer software engineering", the words "including the discipline of computer hardware engineering but excluding the discipline of computer software engineering" shall be substituted;

(*c*) in sub-clause (*k*), the following *Explanation* shall be inserted at the end, namely:—

"*Explanation*.—For the removal of doubts, it is hereby declared that for the purposes of this sub-clause, recruitment or supply of manpower includes services in relation to pre-recruitment screening, verification of the credentials and antecedents of the candidate and authenticity of documents submitted by the candidate;";

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(*d*) for sub-clause (*r*), the following sub-clause shall be substituted, namely:—

"(*r*) to a client, by a management or business consultant in connection with the management of any organisation or business, in any manner;";

(*e*) sub-clauses (*zd*), (*ze*), (*zf*) and (*zg*) shall be omitted;

(*f*) in sub-clause (*zm*), for the words "or any other person", the words "or commercial concern" shall be substituted;

(*g*) in sub-clause (*zzzm*), for *Explanation 2*, the following *Explanation* shall be substituted, namely:—

'*Explanation 2*.—For the purposes of this sub-clause, "print media" means,—

(*i*) "newspaper" as defined in sub-section (*1*) of section 1 of the Press and Registration of Books Act, 1867; 25 of 1867.

(*ii*) "book" as defined in sub-section (*1*) of section 1 of the Press and Registration of Books Act, 1867, but does not include business directories, yellow pages and trade catalogues which are primarily meant for commercial purposes;'; 25 of 1867.

(*h*) after sub-clause (*zzzw*), the following sub-clauses shall be inserted, namely:—

'(*zzzx*) to any person, by the telegraph authority in relation to telecommunication service;

(*zzzy*) to any person, by any other person in relation to mining of mineral, oil or gas;

(*zzzz*) to any person, by any other person in relation to renting of immovable property for use in the course or furtherance of business or commerce.

Explanation 1.—For the purposes of this sub-clause, "immovable property" includes—

(*i*) building and part of a building, and the land appurtenant thereto;

(*ii*) land incidental to the use of such building or part of a building;

(*iii*) the common or shared areas and facilities relating thereto; and

(*iv*) in case of a building located in a complex or an industrial estate, all common areas and facilities relating thereto, within such complex or estate,

but does not include—

(*a*) vacant land solely used for agriculture, aquaculture, farming, forestry, animal husbandry, mining purposes;

(*b*) vacant land, whether or not having facilities clearly incidental to the use of such vacant land;

(*c*) land used for educational, sports, circus, entertainment and parking purposes; and

(*d*) building used solely for residential purposes and buildings used for the purposes of accommodation, including hotels, hostels, boarding houses, holiday accommodation, tents, camping facilities.

Explanation 2.—For the purposes of this sub-clause, an immovable property partly for use in the course or furtherance of business or commerce and partly for residential or any other purposes shall be deemed to be immovable property for use in the course or furtherance of business or commerce;

(*zzzza*) to any person, by any other person in relation to the execution of a works contract, excluding works contract in respect of roads, airports, railways, transport terminals, bridges, tunnels and dams.

Explanation.—For the purposes of this sub-clause, "works contract" means a contract wherein,—

(*i*) transfer of property in goods involved in the execution of such contract is leviable to tax as sale of goods, and

(*ii*) such contract is for the purposes of carrying out,—

(*a*) erection, commissioning or installation of plant, machinery, equipment or structures, whether pre-fabricated or otherwise, installation of electrical and electronic devices, plumbing, drain laying or other installations for transport of fluids, heating, ventilation or air-conditioning including related pipe work, duct work and sheet metal work, thermal insulation, sound insulation, fire proofing or water proofing, lift and escalator, fire escape staircases or elevators; or

(*b*) construction of a new building or a civil structure or a part thereof, or of a pipeline or conduit, primarily for the purposes of commerce or industry; or

(*c*) construction of a new residential complex or a part thereof; or

(*d*) completion and finishing services, repair, alteration, renovation or restoration of, or similar services, in relation to (*b*) and (*c*); or

(*e*) turnkey projects including engineering, procurement and construction or commissioning (*EPC*) projects;

(*zzzzb*) to any person, by any other person in relation to development and supply of content for use in telecommunication services, advertising agency services and on-line information and database access or retrieval services;

(*zzzzc*) to any person, by any other person, except a banking company or a financial institution including a non-banking financial company or any other body corporate or commercial concern referred to in sub-clause (*zm*), in relation to asset management including portfolio management and all forms of fund management;

(*zzzzd*) to any person, by any other person in relation to design services,

but does not include service provided by—

(*i*) an interior decorator referred to in sub-clause (*q*); and

(*ii*) a fashion designer in relation to fashion designing referred to in sub-clause (*zv*);';

(*14*) after clause (*109*), the following clause shall be inserted, namely:—

'(*109a*) "telecommunication service" means service of any description provided by means of any transmission, emission or reception of signs, signals, writing, images and sounds or intelligence or information of any nature, by wire, radio, optical, visual or other electro-magnetic means or systems, including the related transfer or assignment of the right to use capacity for such transmission, emission or reception by a person who has been granted a licence under the first proviso to sub-section (*1*) of section 4 of the Indian Telegraph Act, 1885 and includes— 13 of 1885.

(*i*) voice mail, data services, audio tex services, video tex services, radio paging;

(*ii*) fixed telephone services including provision of access to and use of the public switched telephone network for the transmission and switching of voice, data and video, inbound and outbound telephone service to and from national and international destinations;

(*iii*) cellular mobile telephone services including provision of access to and use of switched or non-switched networks for the transmission of voice, data and video, inbound and outbound roaming service to and from national and international destinations;

(*iv*) carrier services including provision of wired or wireless facilities to originate, terminate or transit calls, charging for interconnection, settlement or termination of domestic or international calls, charging for jointly used facilities including pole attachments, charging for the exclusive use of circuits, a leased circuit or a dedicated link including a speech circuit, data circuit or a telegraph circuit;

(*v*) provision of call management services for a fee including call waiting, call forwarding, caller identification, three-way calling, call display, call return, call screen, call blocking, automatic call-back, call answer, voice mail, voice menus and video conferencing;

(*vi*) private network services including provision of wired or wireless telecommunication link between specified points for the exclusive use of the client;

(*vii*) data transmission services including provision of access to wired or wireless facilities and services specifically designed for efficient transmission of data; and

(*viii*) communication through facsimile, pager, telegraph and telex,

but does not include service provided by—

(*a*) any person in relation to on-line information and database access or retrieval or both referred to in sub-clause (*zh*) of clause (*105*);

(*b*) a broadcasting agency or organisation in relation to broadcasting referred to in sub-clause (*zk*) of clause (*105*); and

(*c*) any person in relation to internet telephony referred to in sub-clause (*zzzu*) of clause (*105*);';

(*B*) for section 66, with effect from such date as the Central Government may, by notification in the Official Gazette, appoint, the following section shall be substituted, namely:—

"*66*. There shall be levied a tax (hereinafter referred to as the service tax) at the rate of twelve per cent. of the value of taxable services referred to in sub-clauses (*a*), (*d*), (*e*), (*f*), (*g*), (*h*), (*i*), (*j*), (*k*), (*l*), (*m*), (*n*), (*o*), (*p*), (*q*), (*r*), (*s*), (*t*), (*u*), (*v*), (*w*), (*x*), (*y*), (*z*), (*za*), (*zb*), (*zc*), (*zh*), (*zi*), (*zj*), (*zk*), (*zl*), (*zm*), (*zn*), (*zo*), (*zq*), (*zr*), (*zs*), (*zt*), (*zu*), (*zv*), (*zw*), (*zx*), (*zy*), (*zz*), (*zza*), (*zzb*), (*zzc*), (*zzd*), (*zze*), (*zzf*), (*zzg*), (*zzh*), (*zzi*), (*zzk*), (*zzl*), (*zzm*), (*zzn*), (*zzo*), (*zzp*), (*zzq*), (*zzr*), (*zzs*), (*zzt*), (*zzu*), (*zzv*), (*zzw*), (*zzx*), (*zzy*), (*zzz*), (*zzza*), (*zzzb*), (*zzzc*), (*zzzd*), (*zzze*), (*zzzf*), (*zzzg*), (*zzzh*), (*zzzi*), (*zzzj*), (*zzzk*), (*zzzl*), (*zzzm*), (*zzzn*), (*zzzo*), (*zzzp*), (*zzzq*), (*zzzr*), (*zzzs*), (*zzzt*), (*zzzu*), (*zzzv*), (*zzzw*), (*zzzx*), (*zzzy*), (*zzzz*), (*zzzza*), (*zzzzb*), (*zzzzc*) and (*zzzzd*) of clause (105) of section 65 and collected in such manner as may be prescribed.";

(*C*) in section 70, in sub-section (*1*), for the words "as may be prescribed", the words "and with such late fee not exceeding two thousand rupees, for delayed furnishing of return, as may be prescribed" shall be substituted;

(*D*) in section 83,—

(*i*) after the figures "14,", the figures and letters "14AA," shall be inserted;

(*ii*) after the figures and letter "37D", the figures and letter ",38A" shall be inserted;

(*E*) in section 86,—

(*a*) after sub-section (*1*), the following sub-section shall be inserted, namely:—

"(*1A*)(*i*) The Board may, by notification in the Official Gazette, constitute such Committees as may be necessary for the purposes of this Chapter.

(*ii*) Every Committee constituted under clause (*i*) shall consist of two Chief Commissioners of Central Excise or two Commissioners of Central Excise, as the case may be.";

(*b*) in sub-section (*2*), for the word "Board", the words "Committee of Chief Commissioners of Central Excise" shall be substituted;

(*c*) for sub-section (*2A*), the following sub-section shall be substituted, namely:—

"(*2A*) The Committee of Commissioners may, if it objects to any order passed by the Commissioner of Central Excise (Appeals) under section 85, direct any Central Excise Officer to appeal on its behalf to the Appellate Tribunal against the order.";

(*d*) in sub-section (*3*), for the words "Board or by the Commissioner of Central Excise", the words "Committee of Chief Commissioners or the Committee of Commissioners" shall be substituted;

(*F*) in section 94, in sub-section (*2*), for clause (*c*), the following clause shall be substituted, namely:—

"(*c*) the form, manner and frequency of the returns to be furnished under sub-sections (*1*) and (*2*) and the late fee for delayed furnishing of return under sub-section (*1*) of section 70;";

(G) in section 95, after sub-section (*1C*), the following sub-section shall be inserted, namely:—

"*(1D)* If any difficulty arises in respect of implementing, classifying or assessing the value of any taxable service incorporated in this Chapter by the Finance Act, 2007, the Central Government may, by order published in the Official Gazette, not inconsistent with the provisions of this Chapter, remove the difficulty:

Provided that no such order shall be made after the expiry of a period of one year from the date on which the Finance Bill, 2007 receives the assent of the President.";

(*H*) in section 96A, in clause (*b*), the following *Explanation* shall be inserted at the end, namely:—

'*Explanation*.—For the purposes of this clause, "joint venture in India" means a contractual arrangement whereby two or more persons undertake an economic activity which is subject to joint control and one or more of the participants or partners or equity holders is a non-resident having substantial interest in such arrangement;'.

CHAPTER VI

SECONDARY AND HIGHER EDUCATION CESS

Secondary and Higher Education Cess.

136. (*1*) Without prejudice to the provisions of sub-section (*12*) of section 2, there shall be levied and collected, in accordance with the provisions of this Chapter as surcharge for purposes of the Union, a cess to be called the Secondary and Higher Education Cess, to fulfil the commitment of the Government to provide and finance secondary and higher education.

(*2*) The Central Government may, after due appropriation made by Parliament by law in this behalf, utilise, such sums of money of the Secondary and Higher Education Cess levied under sub-section (*12*) of section 2 and this Chapter for the purposes specified in sub-section (*1*) as it may consider necessary.

Definition.

137. The words and expressions used in this Chapter and defined in the Central Excise Act, 1944, the Customs Act, 1962 or Chapter V of the Finance Act, 1994, shall have the meanings respectively assigned to them in those Acts or Chapter, as the case may be. 1 of 1944. 52 of 1962. 32 of 1994.

Secondary and Higher Education Cess on excisable goods.

138. (*1*) The Secondary and Higher Education Cess levied under section 136, in the case of goods specified in the First Schedule to the Central Excise Tariff Act, 1985, being goods manufactured or produced, shall be a duty of excise [in this section referred to as the Secondary and Higher Education Cess on excisable goods], at the rate of one per cent., calculated on the aggregate of all duties of excise [including special duty of excise or any other duty of excise but excluding Education Cess chargeable under section 93 of the Finance (No. 2) Act, 2004 and Secondary and Higher Education Cess on excisable goods] which are levied and collected by the Central Government in the Ministry of Finance (Department of Revenue), under the provisions of the Central Excise Act, 1944 or under any other law for the time being in force. 5 of 1986. 23 of 2004. 1 of 1944.

(*2*) The Secondary and Higher Education Cess on excisable goods shall be in addition to any other duties of excise chargeable on such goods, under the Central Excise Act, 1944 or any other law for the time being in force and the Education Cess chargeable under section 93 of the Finance (No. 2) Act, 2004. 1 of 1944. 23 of 2004.

(*3*) The provisions of the Central Excise Act, 1944 and the rules made thereunder, including those relating to refunds and exemptions from duties and imposition of penalty shall, as far as may be, apply in relation to the levy and collection of the Secondary and Higher Education Cess on excisable goods as they apply in relation to the levy and collection of the duties of excise on such goods under the Central Excise Act, 1944 or the rules made thereunder, as the case may be. 1 of 1944.

Secondary and Higher Education Cess on imported goods.

139. (*1*) The Secondary and Higher Education Cess levied under section 136, in the case of goods specified in the First Schedule to the Customs Tariff Act, 1975, being goods imported into India, shall be a duty of customs (in this section referred to as the Secondary and Higher Education Cess on imported goods), at the rate of one per cent., calculated on the aggregate of duties of customs which are levied and collected by the Central Government in the Ministry of Finance (Department of Revenue), under section 12 of the Customs Act, 1962 and any sum chargeable on such goods under any other law for the time being in force, as an addition to, and in the same manner as, a duty of customs, but not including –

51 of 1975.

52 of 1962.

(*a*) the additional duty referred to in sub-section (*5*) of section 3 of the Customs Tariff Act, 1975;

51 of 1975.

(*b*) the safeguard duty referred to in sections 8B and 8C of the Customs Tariff Act, 1975;

51 of 1975.

(*c*) the countervailing duty referred to in section 9 of the Customs Tariff Act, 1975;

51 of 1975.

(*d*) the anti-dumping duty referred to in section 9A of the Customs Tariff Act, 1975; and

51 of 1975.

(*e*) the Education Cess chargeable under section 94 of the Finance (No. 2) Act, 2004 and Secondary and Higher Education Cess on imported goods.

23 of 2004.

(*2*) The Secondary and Higher Education Cess on imported goods shall be in addition to any other duties of customs chargeable on such goods, under the Customs Act, 1962 or any other law for the time being in force and the Education Cess chargeable under section 94 of the Finance (No. 2) Act, 2004.

52 of 1962.
23 of 2004.

(*3*) The provisions of the Customs Act, 1962 and the rules and regulations made thereunder, including those relating to refunds and exemptions from duties and imposition of penalty shall, as far as may be, apply in relation to the levy and collection of the Secondary and Higher Education Cess on imported goods as they apply in relation to the levy and collection of the duties of customs on such goods under the Customs Act, 1962 or the rules or the regulations made thereunder, as the case may be.

52 of 1962.

Secondary and Higher Education Cess on taxable services.

140. (*1*) The Secondary and Higher Education Cess levied under section 136, in the case of all services which are taxable services, shall be a tax (in this section referred to as the Secondary and Higher Education Cess on taxable services) at the rate of one per cent., calculated on the tax which is levied and collected under section 66 of the Finance Act, 1994.

32 of 1994.

(*2*) The Secondary and Higher Education Cess on taxable services shall be in addition to the tax chargeable on such taxable services, under Chapter V of the Finance Act, 1994 and the Education Cess chargeable under section 95 of the Finance (No. 2) Act, 2004.

32 of 1994.
23 of 2004.

(*3*) The provisions of Chapter V of the Finance Act, 1994 and the rules made thereunder, including those relating to refunds and exemptions from tax and imposition of penalty shall, as far as may be, apply in relation to the levy and collection of the Secondary and Higher Education Cess on taxable services, as they apply in relation to the levy and collection of tax on such taxable services under Chapter V of the Finance Act, 1994 or the rules made thereunder, as the case may be.

32 of 1994.

Amendment of Act 23 of 2004.

141. In the Finance (No. 2) Act, 2004,—

(*1*) in section 93, in sub-section (*1*), for the words "excluding Education Cess", the words "excluding Education Cess, and Secondary and Higher Education Cess levied under section 136 of the Finance Act, 2007" shall be substituted;

(*2*) in section 94, in sub-section (*1*), in clause (*d*), for the words "Education Cess", the words "Education Cess, and Secondary and Higher Education Cess levied under section 136 of the Finance Act, 2007" shall be substituted.

CHAPTER VII

MISCELLANEOUS

Amendment of section 14 of Act 74 of 1956.

142. In the Central Sales Tax Act, 1956, in section 14, for clause (*iid*), the following clause shall be substituted, namely:—

'(*iid*) Aviation Turbine Fuel sold to an aircraft with a maximum take-off mass of less than forty thousand kilograms operated by scheduled airlines.

Explanation.—For the purposes of this clause, "scheduled airlines" means the airlines which have been permitted by the Central Government to operate any Scheduled air transport service.'.

Amendment of First Schedule to Act 58 of 1957.

143. In the Additional Duties of Excise (Goods of Special Importance) Act, 1957, the First Schedule shall be amended in the manner specified in the Sixth Schedule.

Amendment of section 94 of Act 18 of 2005.

144. In Chapter VII of the Finance Act, 2005, in section 94, with effect from the 1st day of June, 2007,—

(*a*) in clause (*5*), the words "and includes an office or establishment of the Central Government or the Government of a State" shall be omitted;

(*b*) in clause (*8*),—

(*i*) in sub-clause (*a*), in item (*i*), for the words "twenty-five thousand rupees", the words "fifty thousand rupees" shall be substituted;

(*ii*) in sub-clause (*b*), in item (*i*), for the words "twenty-five thousand rupees", the words "fifty thousand rupees" shall be substituted.

THE FIRST SCHEDULE
(*See* section 2)

PART I

INCOME-TAX.

Paragraph A

(*I*) In the case of every individual other than the individual referred to in items (*II*) and (*III*) of this Paragraph or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (*vii*) of clause (*31*) of section 2 of the Income-tax Act, not being a case to which any other Paragraph of this Part applies,—

Rates of income-tax

(1) where the total income does not exceed Rs. 1,00,000	*Nil;*
(2) where the total income exceeds Rs.1,00,000 but does not exceed Rs. 1,50,000	10 per cent. of the amount by which the total income exceeds Rs. 1,00,000;
(3) where the total income exceeds Rs. 1,50,000 but does not exceed Rs. 2,50,000	Rs. 5,000 *plus* 20 per cent. of the amount by which the total income exceeds Rs. 1,50,000;
(4) where the total income exceeds Rs. 2,50,000	Rs. 25,000 *plus* 30 per cent. of the amount by which the total income exceeds Rs. 2,50,000.

(*II*) In the case of every individual, being a woman resident in India, and below the age of sixty-five years at any time during the previous year,—

Rates of income-tax

(1) where the total income does not exceed Rs. 1,35,000	*Nil;*
(2) where the total income exceeds Rs. 1,35,000 but does not exceed Rs. 1,50,000	10 per cent. of the amount by which the total income exceeds Rs. 1,35,000;
(3) where the total income exceeds Rs. 1,50,000 but does not exceed Rs. 2,50,000	Rs. 1,500 *plus* 20 per cent. of the amount by which the total income exceeds Rs. 1,50,000;
(4) where the total income exceeds Rs. 2,50,000	Rs. 21,500 *plus* 30 per cent. of the amount by which the total income exceeds Rs. 2,50,000.

(*III*) In the case of every individual, being a resident in India, who is of the age of sixty-five years or more at any time during the previous year,—

Rates of income-tax

(1) where the total income does not exceed Rs. 1,85,000	*Nil;*
(2) where the total income exceeds Rs. 1,85,000 but does not exceed Rs. 2,50,000	20 per cent. of the amount by which the total income exceeds Rs. 1,85,000;
(3) where the total income exceeds Rs. 2,50,000	Rs. 13,000 *plus* 30 per cent. of the amount by which the total income exceeds Rs. 2,50,000.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or in section 111A or section 112, shall,—

(*i*) in the case of every individual or Hindu undivided family or association of persons or body of individuals having a total income exceeding ten lakh rupees, be reduced by the amount of rebate of income-tax calculated under Chapter VIII-A, and the income-tax as so reduced, be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent. of such income-tax;

(*ii*) in the case of every person, other than those mentioned in item (*i*), be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent. of such income-tax:

Provided that in case of persons mentioned in item (*i*) above having a total income exceeding ten lakh rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of ten lakh rupees by more than the amount of income that exceeds ten lakh rupees.

Paragraph B

In the case of every co-operative society,—

Rates of income-tax

(1) where the total income does not exceed Rs.10,000	10 per cent. of the total income;
(2) where the total income exceeds Rs.10,000 but does not exceed Rs. 20,000	Rs.1,000 *plus* 20 per cent. of the amount by which the total income exceeds Rs.10,000;
(3) where the total income exceeds Rs. 20,000	Rs. 3,000 *plus* 30 per cent. of the amount by which the total income exceeds Rs. 20,000.

Paragraph C

In the case of every firm,—

Rate of income-tax

On the whole of the total income 30 per cent.

Surcharge on income-tax

The amount of income-tax computed at the rate hereinbefore specified, or in section 111A or section 112, shall, in the case of every firm, be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent. of such income-tax.

Paragraph D

In the case of every local authority,—

Rate of income-tax

On the whole of the total income 30 per cent.

Paragraph E

In the case of a company,—

Rates of income-tax

I. In the case of a domestic company 30 per cent. of the total income;

II. In the case of a company other than a domestic company—

(*i*) on so much of the total income as consists of,—

(*a*) royalties received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1961 but before the 1st day of April, 1976; or

(*b*) fees for rendering technical services received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 29th day of February, 1964 but before the 1st day of April, 1976,

and where such agreement has, in either case, been approved by the Central Government 50 per cent.;

(*ii*) on the balance, if any, of the total income 40 per cent.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or in section 111A or section 112, shall, in the case of every company, be increased by a surcharge for purposes of the Union calculated,—

(*i*) in the case of every domestic company at the rate of ten per cent. of such income-tax;

(*ii*) in the case of every company other than a domestic company at the rate of two and one-half per cent.

PART II

RATES FOR DEDUCTION OF TAX AT SOURCE IN CERTAIN CASES

In every case in which under the provisions of sections 193, 194, 194A, 194B, 194BB, 194D and 195 of the Income-tax Act, tax is to be deducted at the rates in force, deduction shall be made from the income subject to the deduction at the following rates:—

	Rate of income-tax
1. In the case of a person other than a company—	
(*a*) where the person is resident in India—	
(*i*) on income by way of interest other than "Interest on securities"	10 per cent.;
(*ii*) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort	30 per cent.;
(*iii*) on income by way of winnings from horse races	30 per cent.;
(*iv*) on income by way of insurance commission	10 per cent.;
(*v*) on income by way of interest payable on—	10 per cent.;
(*A*) any debentures or securities, other than a security of the Central or State Government, for money issued by or on behalf of any local authority or a corporation established by a Central, State or Provincial Act;	
(*B*) any debentures issued by a company where such debentures are listed on a recognised stock exchange in India in accordance with the Securities Contracts (Regulation) Act, 1956 (42 of 1956) and any rules made thereunder	
(*vi*) on any other income	20 per cent.;
(*b*) where the person is not resident in India—	
(*i*) in the case of a non-resident Indian—	
(*A*) on any investment income	20 per cent.;
(*B*) on income by way of long-term capital gains referred to in section 115E	10 per cent.;
(*C*) on income by way of short-term capital gains referred to in section 111A	10 per cent.;
(*D*) on other income by way of long-term capital gains [not being long-term capital gains referred to in clauses (*33*), (*36*) and (*38*) of section 10]	20 per cent.;
(*E*) on income by way of interest payable by Government or an Indian concern on moneys borrowed or debt incurred by Government or the Indian concern in foreign currency	20 per cent.;
(*F*) on income by way of royalty payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern where such royalty is in consideration for the transfer of all or any rights (including the granting of a licence) in respect of copyright in any book on a subject referred to in the first proviso to sub-section (*1A*) of section 115A of the Income-tax Act, to the Indian concern, or in respect of any computer software referred to in the second proviso to sub-section (*1A*) of section 115A of the Income-tax Act, to a person resident in India—	

	Rate of income-tax
(*I*) where the agreement is made on or after the 1st day of June, 1997 but before the 1st day of June, 2005	20 per cent.;
(*II*) where the agreement is made on or after the 1st day of June, 2005	10 per cent.;
(*G*) on income by way of royalty [not being royalty of the nature referred to in sub-item (*b*)(*i*)(*F*)] payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy—	
(*I*) where the agreement is made on or after the 1st day of June, 1997 but before the 1st day of June, 2005	20 per cent.;
(*II*) where the agreement is made on or after the 1st day of June, 2005	10 per cent.;
(*H*) on income by way of fees for technical services payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy—	
(*I*) where the agreement is made on or after the 1st day of June, 1997 but before the 1st day of June, 2005	20 per cent.;
(*II*) where the agreement is made on or after the 1st day of June, 2005	10 per cent.;
(*I*) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort	30 per cent.;
(*J*) on income by way of winnings from horse races	30 per cent.;
(*K*) on the whole of the other income	30 per cent.;
(*ii*) in the case of any other person—	
(*A*) on income by way of interest payable by Government or an Indian concern on moneys borrowed or debt incurred by Government or the Indian concern in foreign currency	20 per cent.;
(*B*) on income by way of royalty payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern where such royalty is in consideration for the transfer of all or any rights (including the granting of a licence) in respect of copyright in any book on a subject referred to in the first proviso to sub-section (*1A*) of section 115A of the Income-tax Act, to the Indian concern, or in respect of any computer software referred to in the second proviso to sub-section (*1A*) of section 115A of the Income-tax Act, to a person resident in India—	
(*I*) where the agreement is made on or after the 1st day of June, 1997 but before the 1st day of June, 2005	20 per cent.;
(*II*) where the agreement is made on or after the 1st day of June, 2005	10 per cent.;
(*C*) on income by way of royalty [not being royalty of the nature referred to in sub-item (*b*)(*ii*)(*B*)] payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and	

	Rate of income-tax
where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy—	
(*I*) where the agreement is made on or after the 1st day of June, 1997 but before the 1st day of June, 2005	20 per cent.;
(*II*) where the agreement is made on or after the 1st day of June, 2005	10 per cent.;
(*D*) on income by way of fees for technical services payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy—	
(*I*) where the agreement is made on or after the 1st day of June, 1997 but before the 1st day of June, 2005	20 per cent.;
(*II*) where the agreement is made on or after the 1st day of June, 2005	10 per cent.;
(*E*) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort	30 per cent.;
(*F*) on income by way of winnings from horse races	30 per cent.;
(*G*) on income by way of short-term capital gains referred to in section 111A	10 per cent.;
(*H*) on income by way of long-term capital gains [not being long-term capital gains referred to in clauses (*33*), (*36*) and (*38*) of section 10]	20 per cent.;
(*I*) on the whole of the other income	30 per cent.;
2. In the case of a company—	
(*a*) where the company is a domestic company—	
(*i*) on income by way of interest other than "Interest on securities"	20 per cent.;
(*ii*) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort	30 per cent.;
(*iii*) on income by way of winnings from horse races	30 per cent.;
(*iv*) on any other income	20 per cent.;
(*b*) where the company is not a domestic company—	
(*i*) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort	30 per cent.;
(*ii*) on income by way of winnings from horse races	30 per cent.;
(*iii*) on income by way of interest payable by Government or an Indian concern on moneys borrowed or debt incurred by Government or the Indian concern in foreign currency	20 per cent.;
(*iv*) on income by way of royalty payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1976 where such royalty is in consideration for the transfer of all or any rights (including the granting of a licence) in respect of copyright in any book on a subject referred to in the first proviso to sub-section (*1A*) of section 115A of	

Rate of income-tax

the Income-tax Act, to the Indian concern, or in respect of any computer software referred to in the second proviso to sub-section (*1A*) of section 115A of the Income-tax Act, to a person resident in India—

(*A*) where the agreement is made before the 1st day of June, 1997 — 30 per cent.;

(*B*) where the agreement is made on or after the 1st day of June, 1997 but before the 1st day of June, 2005 — 20 per cent.;

(*C*) where the agreement is made on or after the 1st day of June, 2005 — 10 per cent.;

(*v*) on income by way of royalty [not being royalty of the nature referred to in sub-item (*b*)(*iv*)] payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy—

(*A*) where the agreement is made after the 31st day of March, 1961 but before the 1st day of April, 1976 — 50 per cent.;

(*B*) where the agreement is made after the 31st day of March, 1976 but before the 1st day of June, 1997 — 30 per cent.;

(*C*) where the agreement is made on or after the 1st day of June, 1997 but before the 1st day of June, 2005 — 20 per cent.;

(*D*) where the agreement is made on or after the 1st day of June, 2005 — 10 per cent.;

(*vi*) on income by way of fees for technical services payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy—

(*A*) where the agreement is made after the 29th day of February, 1964 but before the 1st day of April, 1976 — 50 per cent.;

(*B*) where the agreement is made after the 31st day of March, 1976 but before the 1st day of June, 1997 — 30 per cent.;

(*C*) where the agreement is made on or after the 1st day of June, 1997 but before the 1st day of June, 2005 — 20 per cent.;

(*D*) where the agreement is made on or after the 1st day of June, 2005 — 10 per cent.;

(*vii*) on income by way of short-term capital gains referred to in section 111A — 10 per cent.;

(*viii*) on income by way of long-term capital gains [not being long-term capital gains referred to in clauses (*33*), (*36*) and (*38*) of section 10] — 20 per cent.;

(*ix*) on any other income — 40 per cent.;

Explanation.—For the purpose of item 1(*b*)(*i*) of this Part, "investment income" and "non-resident Indian" shall have the meanings assigned to them in Chapter XII-A of the Income-tax Act.

Surcharge on income-tax

The amount of income-tax deducted in accordance with the provisions of—

(*A*) item 1 of this Part, shall be increased by a surcharge, for purposes of the Union, calculated,—

(*i*) in the case of every individual, Hindu undivided family, association of persons and body of individuals, whether incorporated or not, at the rate of ten per cent. of such tax where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds ten lakh rupees;

(*ii*) in the case of every artificial juridical person referred to in sub-clause (*vii*) of clause (*31*) of section 2 of the Income-tax Act, at the rate of ten per cent. of such tax;

(*iii*) in the case of every firm at the rate of ten per cent. of such tax where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds one crore rupees;

(*B*) item 2 of this Part, shall be increased by a surcharge, for purposes of the Union, calculated,—

(*i*) in the case of every domestic company at the rate of ten per cent. of such income-tax where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds one crore rupees;

(*ii*) in the case of every company other than a domestic company at the rate of two and one-half per cent. of such income-tax where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds one crore rupees.

PART III

RATES FOR CHARGING INCOME-TAX IN CERTAIN CASES, DEDUCTING INCOME-TAX FROM INCOME CHARGEABLE UNDER THE HEAD "SALARIES" AND COMPUTING "ADVANCE TAX"

In cases in which income-tax has to be charged under sub-section (*4*) of section 172 of the Income-tax Act or sub-section (*2*) of section 174 or section 174A or section 175 or sub-section (*2*) of section 176 of the said Act or deducted from, or paid on, from income chargeable under the head "Salaries" under section 192 of the said Act or in which the "advance tax" payable under Chapter XVII-C of the said Act has to be computed at the rate or rates in force, such income-tax or, as the case may be, "advance tax" [not being "advance tax" in respect of any income chargeable to tax under Chapter XII or Chapter XII-A or fringe benefits chargeable to tax under Chapter XII-H or income chargeable to tax under section 115JB or sub-section (*1A*) of section 161 or section 164 or section 164A or section 167B of the Income-tax Act at the rates as specified in that Chapter or section or surcharge on such "advance tax" in respect of any income chargeable to tax under section 115A or section 115AB or section 115AC or section 115ACA or section 115AD or section 115B or section 115BB or section 115BBA or section 115BBC or section 115E or section 115JB or fringe benefits chargeable to tax under section 115WA] shall be charged, deducted or computed at the following rate or rates:—

Paragraph A

(*I*) In the case of every individual other than the individual referred to in items (*II*) and (*III*) of this Paragraph or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (*vii*) of clause (*31*) of section 2 of the Income-tax Act, not being a case to which any other Paragraph of this Part applies,—

Rates of income-tax

(1) where the total income does not exceed Rs. 1,10,000	*Nil;*
(2) where the total income exceeds Rs.1,10,000 but does not exceed Rs. 1,50,000	10 per cent. of the amount by which the total income exceeds Rs. 1,10,000;
(3) where the total income exceeds Rs. 1,50,000 but does not exceed Rs. 2,50,000	Rs. 4,000 *plus* 20 per cent. of the amount by which the total income exceeds Rs. 1,50,000;
(4) where the total income exceeds Rs. 2,50,000	Rs. 24,000 *plus* 30 per cent. of the amount by which the total income exceeds Rs. 2,50,000.

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(*II*) In the case of every individual, being a woman resident in India, and below the age of sixty-five years at any time during the previous year,—

Rates of income-tax

(1) where the total income does not exceed Rs. 1,45,000	*Nil;*
(2) where the total income exceeds Rs. 1,45,000 but does not exceed Rs. 1,50,000	10 per cent. of the amount by which the total income exceeds Rs. 1,45,000;
(3) where the total income exceeds Rs. 1,50,000 but does not exceed Rs. 2,50,000	Rs. 500 *plus* 20 per cent. of the amount by which the total income exceeds Rs. 1,50,000;
(4) where the total income exceeds Rs. 2,50,000	Rs. 20,500 *plus* 30 per cent. of the amount by which the total income exceeds Rs. 2,50,000.

(*III*) In the case of every individual, being a resident in India, who is of the age of sixty-five years or more at any time during the previous year,—

Rates of income-tax

(1) where the total income does not exceed Rs. 1,95,000	*Nil;*
(2) where the total income exceeds Rs.1,95,000 but does not exceed Rs. 2,50,000	20 per cent. of the amount by which the total income exceeds Rs. 1,95,000;
(3) where the total income exceeds Rs. 2,50,000	Rs. 11,000 *plus* 30 per cent. of the amount by which the total income exceeds Rs. 2,50,000.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or in section 111A or section 112 shall,—

(*i*) in the case of every individual or Hindu undivided family or association of persons or body of individuals having a total income exceeding ten lakh rupees, be reduced by the amount of rebate of income-tax calculated under Chapter VIII-A, and the income-tax as so reduced, be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent. of such income-tax;

(*ii*) in the case of every person, other than those mentioned in item (*i*), be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent. of such income-tax:

Provided that in case of persons mentioned in item (*i*) above having a total income exceeding ten lakh rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of ten lakh rupees by more than the amount of income that exceeds ten lakh rupees.

Paragraph B

In the case of every co-operative society, —

Rates of income-tax

(1) where the total income does not exceed Rs. 10,000	10 per cent. of the total income;
(2) where the total income exceeds Rs.10,000 but does not exceed Rs. 20,000	Rs. 1,000 *plus* 20 per cent. of the amount by which the total income exceeds Rs. 10,000;
(3) where the total income exceeds Rs. 20,000	Rs. 3,000 *plus* 30 per cent. of the amount by which the total income exceeds Rs. 20,000.

Paragraph C

In the case of every firm,—

Rate of income-tax

On the whole of the total income 30 per cent.

Surcharge on income-tax

The amount of income-tax computed at the rate hereinbefore specified, or in section 111A or section 112, shall, in the case of every firm having a total income exceeding one crore rupees, be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent. of such income-tax :

Provided that in the case of every firm having a total income exceeding one crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

Paragraph D

In the case of every local authority,—

Rate of income-tax

On the whole of the total income 30 per cent.

Paragraph E

In the case of a company,—

Rates of income-tax

I. In the case of a domestic company 30 per cent. of the total income;

II. In the case of a company other than a domestic company—

(*i*) on so much of the total income as consists of,—

(*a*) royalties received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1961 but before the 1st day of April, 1976; or

(*b*) fees for rendering technical services received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 29th day of February, 1964 but before the 1st day of April, 1976,

and where such agreement has, in either case, been approved by the Central Government 50 per cent.;

(*ii*) on the balance, if any, of the total income 40 per cent.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or in section 111A or section 112, shall, in the case of every company, be increased by a surcharge for purposes of the Union calculated,—

(*i*) in the case of every domestic company having a total income exceeding one crore rupees, at the rate of ten per cent. of such income-tax;

(*ii*) in the case of every company other than a domestic company having a total income exceeding one crore rupees at the rate of two and one-half per cent.:

Provided that in the case of every company having a total income exceeding one crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

PART IV

[*See* section 2(*12*)(*c*)]

RULES FOR COMPUTATION OF NET AGRICULTURAL INCOME

Rule 1.—Agricultural income of the nature referred to in sub-clause (*a*) of clause (*1A*) of section 2 of the Income-tax Act shall be computed as if it were income chargeable to income-tax under that Act under the head "Income from other sources" and the provisions of sections 57 to 59 of that Act shall, so far as may be, apply accordingly:

Provided that sub-section (*2*) of section 58 shall apply subject to the modification that the reference to section 40A therein shall be construed as not including a reference to sub-sections (*3*) and (*4*) of section 40A.

Rule 2.—Agricultural income of the nature referred to in sub-clause (*b*) or sub-clause (*c*) of clause (*1A*) of section 2 of the Income-tax Act [other than income derived from any building required as a dwelling-house by the receiver of the rent or revenue of the cultivator or the receiver of rent-in-kind referred to in the said sub-clause (*c*)] shall be computed as if it were income chargeable to income-tax under that Act under the head "Profits and gains of business or profession" and the provisions of sections 30, 31, 32, 36, 37, 38, 40, 40A [other than sub-sections (*3*) and (*4*) thereof], 41, 43, 43A, 43B and 43C of the Income-tax Act shall, so far as may be, apply accordingly.

Rule 3.—Agricultural income of the nature referred to in sub-clause (*c*) of clause (*1A*) of section 2 of the Income-tax Act, being income derived from any building required as a dwelling-house by the receiver of the rent or revenue or the cultivator or the receiver of rent-in-kind referred to in the said sub-clause (*c*) shall be computed as if it were income chargeable to income-tax under that Act under the head "Income from house property" and the provisions of sections 23 to 27 of that Act shall, so far as may be, apply accordingly.

Rule 4.—Notwithstanding anything contained in any other provisions of these rules, in a case—

(*a*) where the assessee derives income from sale of tea grown and manufactured by him in India, such income shall be computed in accordance with rule 8 of the Income-tax Rules, 1962, and sixty per cent. of such income shall be regarded as the agricultural income of the assessee;

(*b*) where the assessee derives income from sale of centrifuged latex or cenex or latex based crepes (such as pale latex crepe) or brown crepes (such as estate brown crepe, re-milled crepe, smoked blanket crepe or flat bark crepe) or technically specified block rubbers manufactured or processed by him from rubber plants grown by him in India, such income shall be computed in accordance with rule 7A of the Income-tax Rules, 1962, and sixty-five per cent. of such income shall be regarded as the agricultural income of the assessee;

(*c*) where the assessee derives income from sale of coffee grown and manufactured by him in India, such income shall be computed in accordance with rule 7B of the Income-tax Rules, 1962, and sixty per cent. or seventy-five per cent., as the case may be, of such income shall be regarded as the agricultural income of the assessee.

Rule 5.—Where the assessee is a member of an association of persons or a body of individuals (other than a Hindu undivided family, a company or a firm) which in the previous year has either no income chargeable to tax under the Income-tax Act or has total income not exceeding the maximum amount not chargeable to tax in the case of an association of persons or a body of individuals (other than a Hindu undivided family, a company or a firm) but has any agricultural income then, the agricultural income or loss of the association or body shall be computed in accordance with these rules and the share of the assessee in the agricultural income or loss so computed shall be regarded as the agricultural income or loss of the assessee.

Rule 6.—Where the result of the computation for the previous year in respect of any source of agricultural income is a loss, such loss shall be set off against the income of the assessee, if any, for that previous year from any other source of agricultural income:

Provided that where the assessee is a member of an association of persons or a body of individuals and the share of the assessee in the agricultural income of the association or body, as the case may be, is a loss, such loss shall not be set off against any income of the assessee from any other source of agricultural income.

Rule 7.—Any sum payable by the assessee on account of any tax levied by the State Government on the agricultural income shall be deducted in computing the agricultural income.

Rule 8.—(*1*) Where the assessee has, in the previous year relevant to the assessment year commencing on the 1st day of April, 2007, any agricultural income and the net result of the computation of the agricultural income of the assessee for any one or more of the previous years relevant to the assessment years commencing on the 1st day of April, 1999 or the 1st day of April, 2000 or the 1st day of April, 2001 or the 1st day of April, 2002 or the 1st day of April, 2003 or the 1st day of April, 2004 or the 1st day of April, 2005 or the 1st day of April, 2006, is a loss, then, for the purposes of sub-section (*2*) of section 2 of this Act,—

(*i*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1999, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2000 or the 1st day of April, 2001 or the 1st day of April, 2002 or the 1st day of April, 2003 or the 1st day of April, 2004 or the 1st day of April, 2005 or the 1st day of April, 2006,

(*ii*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2000, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2001 or the 1st day of April, 2002 or the 1st day of April, 2003 or the 1st day of April, 2004 or the 1st day of April, 2005 or the 1st day of April, 2006,

(*iii*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2001, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2002 or the 1st day of April, 2003 or the 1st day of April, 2004 or the 1st day of April, 2005 or the 1st day of April, 2006,

(*iv*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2002, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2003 or the 1st day of April, 2004 or the 1st day of April, 2005 or the 1st day of April, 2006,

(*v*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2003, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2004 or the 1st day of April, 2005 or the 1st day of April, 2006,

(*vi*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2004, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2005 or the 1st day of April, 2006,

(*vii*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2005, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2006,

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(*viii*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2006,

shall be set off against the agricultural income of the assessee for the previous year relevant to the assessment year commencing on the 1st day of April, 2007.

(*2*) Where the assessee has, in the previous year relevant to the assessment year commencing on the 1st day of April, 2008, or, if by virtue of any provision of the Income-tax Act, income-tax is to be charged in respect of the income of a period other than the previous year, in such other period, any agricultural income and the net result of the computation of the agricultural income of the assessee for any one or more of the previous years relevant to the assessment years commencing on the 1st day of April, 2000 or the 1st day of April, 2001 or the 1st day of April, 2002 or the 1st day of April, 2003 or the 1st day of April, 2004 or the 1st day of April, 2005 or the 1st day of April, 2006 or the 1st day of April, 2007, is a loss, then, for the purposes of sub-section (*10*) of section 2 of this Act,—

(*i*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2000, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2001 or the 1st day of April, 2002 or the 1st day of April, 2003 or the 1st day of April, 2004 or the 1st day of April, 2005 or the 1st day of April, 2006 or the 1st day of April, 2007,

(*ii*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2001, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2002 or the 1st day of April, 2003 or the 1st day of April, 2004 or the 1st day of April, 2005 or the 1st day of April, 2006 or the 1st day of April, 2007,

(*iii*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2002, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2003 or the 1st day of April, 2004 or the 1st day of April, 2005 or the 1st day of April, 2006 or the 1st day of April, 2007,

(*iv*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2003, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2004 or the 1st day of April, 2005 or the 1st day of April, 2006 or the 1st day of April, 2007,

(*v*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2004, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2005 or the 1st day of April, 2006 or the 1st day of April, 2007,

(*vi*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2005, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2006 or the 1st day of April, 2007,

(*vii*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2006, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2007,

(*viii*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2007,

shall be set off against the agricultural income of the assessee for the previous year relevant to the assessment year commencing on the 1st day of April, 2008.

(*3*) Where any person deriving any agricultural income from any source has been succeeded in such capacity by another person, otherwise than by inheritance, nothing in sub-rule (*1*) or sub-rule (*2*) shall entitle any person, other than the person incurring the loss, to have it set off under sub-rule (*1*) or, as the case may be, sub-rule (*2*).

(*4*) Notwithstanding anything contained in this rule, no loss which has not been determined by the Assessing Officer under the provisions of these rules or the rules contained in Part IV of the First Schedule to the Finance Act, 1999 (27 of 1999), or of the First Schedule to the Finance Act, 2000 (10 of 2000), or of the First Schedule to the Finance Act, 2001 (14 of 2001), or of the First Schedule to the Finance Act, 2002 (20 of 2002), or of the First Schedule to the Finance Act, 2003 (32 of 2003), or of the First Schedule to the Finance (No. 2) Act, 2004 (23 of 2004) or of the First Schedule to the Finance Act, 2005 (18 of 2005), or of the First Schedule to the Finance Act, 2006 (21 of 2006) shall be set off under sub-rule (*1*) or, as the case may be, sub-rule (*2*).

Rule 9.—Where the net result of the computation made in accordance with these rules is a loss, the loss so computed shall be ignored and the net agricultural income shall be deemed to be *nil*.

Rule 10.—The provisions of the Income-tax Act relating to procedure for assessment (including the provisions of section 288A relating to rounding off of income) shall, with the necessary modifications, apply in relation to the computation of the net agricultural income of the assessee as they apply in relation to the assessment of the total income.

Rule 11.—For the purposes of computing the net agricultural income of the assessee, the Assessing Officer shall have the same powers as he has under the Income-tax Act for the purposes of assessment of the total income.

THE SECOND SCHEDULE

[*See* section 114(*i*)]

In the First Schedule to the Customs Tariff Act,—

(*1*) in Chapter 21, for the entry in column (4) occurring against all the tariff items of sub-heading 2106 90, the entry "150%" shall be substituted;

(*2*) in Chapter 22,—

(*i*) in tariff items 2207 10 11, 2207 10 19 and 2207 10 90, for the entry in column (4) occurring against each of them, the entry "150%" shall be substituted;

(*ii*) for the entry in column (4) occurring against all the tariff items of heading 2208, the entry "150%" shall be substituted;

(*3*) in Chapter 25,—

(*i*) for the entry in column (4) occurring against all the tariff items (except all the tariff items of headings 2504 and 2510), the entry "10%" shall be substituted;

(*ii*) for the entries in column (4) and column (5) occurring against all the tariff items of heading 2504, the entries "10%" and "10%" shall respectively be substituted;

(*4*) in Chapter 26, in tariff items 2620 11 00, 2620 19 00, 2620 30 10 and 2620 30 90, for the entry in column (4) occurring against each of them, the entry "10%" shall be substituted;

(*5*) in Chapter 27,—

(*i*) for the entry in column (4) occurring against all the tariff items of heading 2701 (except tariff item 2701 12 00), the entry "10%" shall be substituted;

(*ii*) for the entry in column (4) occurring against all the tariff items of headings 2702, 2703 and 2704, the entry "10%" shall be substituted;

(*iii*) in tariff item 2705 00 00, for the entry in column (4), the entry "10%" shall be substituted;

(*iv*) for the entry in column (4) occurring against all the tariff items of headings 2706, 2707 and 2708, the entry "10%" shall be substituted;

(*6*) in Chapter 28,—

(*i*) for the entry in column (4) occurring against all the tariff items (except all the tariff items of headings 2801, 2802, 2803, 2804, 2805 and 2814), the entry "10%" shall be substituted;

(*ii*) for the entry in column (4) occurring against all the tariff items of headings 2801, 2802, 2803, 2804 and 2805, the entry "5%" shall be substituted;

(*7*) in Chapter 29,—

(*i*) for the entry in column (4) occurring against all the tariff items (except tariff items 2905 43 00, 2905 44 00, 2917 37 00, 2933 71 00, 2936 21 00, 2936 22 10, 2936 22 90, 2936 23 10, 2936 23 90, 2936 24 00, 2936 25 00, 2936 26 10, 2936 26 90, 2936 27 00, 2936 28 00, 2936 29 10, 2936 29 20, 2936 29 30, 2936 29 40, 2936 29 50, 2936 29 90, 2936 90 00, 2937 11 00, 2937 12 00, 2937 19 00, 2937 21 00, 2937 22 00, 2937 23 00, 2937 29 00, 2937 31 00, 2937 39 00, 2937 40 00, 2937 50 00, 2937 90 00, 2939 41 10, 2939 41 20, 2939 41 90, 2939 42 00, 2939 43 00, 2939 49 00, 2939 51 00, 2939 59 00, 2941 10 10, 2941 10 20, 2941 10 30, 2941 10 40, 2941 10 50, 2941 10 90.

2941 20 10, 2941 20 90, 2941 30 10, 2941 30 20, 2941 30 90, 2941 40 00, 2941 50 00, 2941 90 11, 2941 90 12, 2941 90 13, 2941 90 14, 2941 90 19, 2941 90 20, 2941 90 30, 2941 90 40, 2941 90 50, 2941 90 60 and 2941 90 90), the entry "10%" shall be substituted;

(*ii*) in tariff items 2917 37 00 and 2933 71 00, for the entries in column (4) and column (*5*) occurring against each of them, the entries "10%" and "10%" shall respectively be substituted;

(*iii*) for the entries in column (4) and column (5) occurring against all the tariff items of heading 2936, the entries "10%" and "10%" shall respectively be substituted;

(*iv*) in tariff items 2937 11 00, 2937 12 00, 2937 19 00, 2937 21 00, 2937 22 00, 2937 23 00, 2937 29 00, 2937 31 00, 2937 39 00, 2937 40 00, 2937 50 00, 2937 90 00, 2939 41 10, 2939 41 20, 2939 41 90, 2939 42 00, 2939 43 00, 2939 49 00, 2939 51 00 and 2939 59 00, for the entries in column (4) and column (5) occurring against each of them, the entries "10%" and "10%" shall respectively be substituted;

(*v*) for the entries in column (4) and column (5) occurring against all the tariff items of heading 2941, the entries "10%" and "10%" shall respectively be substituted;

(*8*) in Chapter 30,—

(*i*) for the entries in column (4) and column (5) occurring against all the tariff items of headings 3001, 3002, 3003 and 3004, the entries "10%" and "10%" shall respectively be substituted;

(*ii*) for the entry in column (4) occurring against all the tariff items of heading 3005, the entry "10%" shall be substituted;

(*iii*) in tariff items 3006 10 10, 3006 10 20, 3006 20 00, 3006 30 00, 3006 40 00, 3006 50 00, 3006 70 00, 3006 91 00 and 3006 92 00, for the entry in column (4) occurring against each of them, the entry "10%" shall be substituted;

(*9*) in Chapter 31, for the entry in column (4) occurring against all the tariff items (except tariff items 3102 21 00, 3102 50 00, 3104 30 00, 3105 20 00, 3105 30 00, 3105 40 00, 3105 51 00, 3105 59 00, 3105 60 00, 3105 90 10 and 3105 90 90), the entry "10%" shall be substituted;

(*10*) in Chapter 32, for the entry in column (4) occurring against all the tariff items, the entry "10%" shall be substituted;

(*11*) in Chapter 33,—

(*i*) for the entry in column (4) occurring against all the tariff items of sub-heading 3302 90, the entry "10%" shall be substituted;

(*ii*) for the entry in column (4) occurring against all the tariff items of headings 3303, 3304, 3305, 3306 and 3307, the entry "10%" shall be substituted;

(*12*) in Chapter 34,—

(*i*) for the entry in column (4) occurring against all the tariff items (except tariff items 3402 11 10, 3402 11 90, 3402 12 00, 3402 13 00 and 3402 19 00), the entry "10%", shall be substituted;

(*ii*) in tariff items 3402 11 10, 3402 11 90, 3402 12 00, 3402 13 00 and 3402 19 00, for the entries in column (4) and column (5) occurring against each of them, the entries "10%" and "10%" shall respectively be substituted;

(*13*) in Chapter 35, for the entry in column (4) occurring against all the tariff items of headings 3506 and 3507, the entry "10%" shall be substituted;

(*14*) in Chapter 36, for the entry in column (4) occurring against all the tariff items, the entry "10%" shall be substituted;

(*15*) in Chapter 37, for the entry in column (4) occurring against all the tariff items, the entry "10%" shall be substituted;

(*16*) in Chapter 38,—

(*i*) for the entry in column (4) occurring against all the tariff items (except tariff items 3801 10 00, 3802 10 00, 3809 10 00, 3812 10 00, 3815 11 00, 3815 12 10, 3815 12 90, 3818 00 10, 3818 00 90, 3823 11 11, 3823 11 12, 3823 11 19, 3823 11 90, 3823 12 00, 3823 13 00, 3823 19 00, 3823 70 10, 3823 70 20, 3823 70 30, 3823 70 40, 3823 70 90, 3824 60 10 and 3824 60 90), the entry "10%" shall be substituted;

(*ii*) in tariff items 3801 10 00, 3802 10 00, 3812 10 00, 3815 11 00, 3815 12 10 and 3815 12 90, for the entries in column (4) and column (5) occurring against each of them, the entries "10%" and "10%" shall respectively be substituted;

(*17*) in Chapter 39, for the entry in column (4) occurring against all the tariff items, the entry "10%" shall be substituted;

(*18*) in Chapter 40, for the entry in column (4) occurring against all the tariff items (except tariff items 4001 10 10, 4001 10 20, 4001 21 00, 4001 22 00, 4001 29 10, 4001 29 20, 4001 29 30, 4001 29 40, 4001 29 90 and 4011 30 00), the entry "10%" shall be substituted;

(*19*) in Chapter 41, for the entry in column (4) occurring against all the tariff items (except all the tariff items of headings 4101, 4102 and 4103), the entry "10%" shall be substituted;

(*20*) in Chapter 42, for the entry in column (4) occurring against all the tariff items, the entry "10%" shall be substituted;

(*21*) in Chapter 43, for the entry in column (4) occurring against all the tariff items of headings 4302, 4303 and 4304, the entry "10%" shall be substituted;

(*22*) in Chapter 44, for the entry in column (4) occurring against all the tariff items (except all the tariff items of headings 4401, 4402 and 4403), the entry "10%" shall be substituted;

(*23*) in Chapter 45, for the entry in column (4) occurring against all the tariff items, the entry "10%" shall be substituted;

(*24*) in Chapter 46, for the entry in column (4) occurring against all the tariff items, the entry "10%" shall be substituted;

(*25*) in Chapter 47, for the entry in column (4) occurring against all the tariff items of heading 4707, the entry "10%" shall be substituted;

(*26*) in Chapter 48, for the entry in column (4) occurring against all the tariff items, the entry "10%" shall be substituted;

(*27*) in Chapter 49, for the entry in column (4) occurring against all the tariff items (except tariff items 4902 10 10, 4902 10 20, 4902 90 10, 4902 90 20, 4904 00 00, 4905 10 00, 4905 91 00, 4905 99 10 and 4905 99 90), the entry "10%" shall be substituted;

(*28*) in Chapter 50, for the entry in column (4) occurring against all the tariff items of headings 5004, 5005, 5006 and 5007, the entry "10%" shall be substituted;

(*29*) in Chapter 51,—

(*i*) for the entry in column (4) occurring against all the tariff items of heading 5104, the entry "10%" shall be substituted;

(*ii*) for the entry in column (4) occurring against all the tariff items of heading 5105 (except tariff item 5105 29 10), the entry "10%" shall be substituted;

(*iii*) for the entry in column (4) occurring against all the tariff items of headings 5106, 5107, 5108, 5109 and 5110, the entry "10%" shall be substituted;

(*iv*) for the entry in column (4) occurring against all the tariff items of sub-heading 5111 11, the entry "10% or Rs. 135 per sq. metre, whichever is higher" shall be substituted;

(*v*) for the entry in column (4) occurring against all the tariff items of sub-heading 5111 19, the entry "10% or Rs. 150 per sq. metre, whichever is higher" shall be substituted;

(*vi*) for the entry in column (4) occurring against all the tariff items of sub-heading 5111 20, the entry "10% or Rs. 80 per sq. metre, whichever is higher" shall be substituted;

(*vii*) for the entry in column (4) occurring against all the tariff items of sub-heading 5111 30, the entry "10% or Rs. 75 per sq. metre, whichever is higher" shall be substituted;

(*viii*) for the entry in column (4) occurring against all the tariff items of sub-heading 5111 90, the entry "10% or Rs. 90 per sq. metre, whichever is higher" shall be substituted;

(*ix*) for the entry in column (4) occurring against all the tariff items of sub-heading 5112 11, the entry "10% or Rs. 125 per sq. metre, whichever is higher" shall be substituted;

(*x*) for the entry in column (4) occurring against all the tariff items of sub-heading 5112 19, the entry "10% or Rs. 155 per sq. metre, whichever is higher" shall be substituted;

(*xi*) for the entry in column (4) occurring against all the tariff items of sub-heading 5112 20, the entry "10% or Rs. 85 per sq. metre, whichever is higher" shall be substituted;

(*xii*) for the entry in column (4) occurring against all the tariff items of sub-heading 5112 30, the entry "10% or Rs. 110 per sq. metre, whichever is higher" shall be substituted;

(*xiii*) for the entry in column (4) occurring against all the tariff items of sub-heading 5112 90, the entry "10% or Rs. 135 per sq. metre, whichever is higher" shall be substituted;

(*xiv*) for the entry in column (4) occurring against all the tariff items of heading 5113, the entry "10% or Rs. 60 per sq. metre, whichever is higher" shall be substituted;

(*30*) in Chapter 52,—

(*i*) for the entry in column (4) occurring against all the tariff items of headings 5204, 5205, 5206 and 5207, the entry "10%" shall be substituted;

(*ii*) for the entry in column (4) occurring against all the tariff items of sub-headings 5208 11, 5208 12, 5208 13, 5208 19, 5208 21, 5208 22, 5208 23, 5208 29, 5208 31, 5208 32 and 5208 33, the entry "10%" shall be substituted;

(*iii*) for the entry in column (4) occurring against all the tariff items of sub-heading 5208 39, the entry "10% or Rs. 150 per kg., whichever is higher" shall be substituted;

(*iv*) for the entry in column (4) occurring against all the tariff items of sub-heading 5208 41, the entry "10% or Rs. 9 per sq. metre, whichever is higher" shall be substituted;

(*v*) for the entry in column (4) occurring against all the tariff items of sub-heading 5208 42, the entry "10% or Rs. 37 per sq. metre, whichever is higher" shall be substituted;

(*vi*) for the entry in column (4) occurring against all the tariff items of sub-heading 5208 43, the entry "10%" shall be substituted;

(*vii*) for the entry in column (4) occurring against all the tariff items of sub-heading 5208 49, the entry "10% or Rs. 200 per kg., whichever is higher" shall be substituted;

(*viii*) for the entry in column (4) occurring against all the tariff items of sub-heading 5208 51, the entry "10% or Rs. 27 per sq. metre, whichever is higher" shall be substituted;

(*ix*) for the entry in column (4) occurring against all the tariff items of sub-heading 5208 52, the entry "10% or Rs. 23 per sq. metre, whichever is higher" shall be substituted;

(*x*) for the entry in column (4) occurring against all the tariff items of sub-heading 5208 59, the entry "10% or Rs. 50 per sq. metre, whichever is higher" shall be substituted;

(*xi*) for the entry in column (4) occurring against all the tariff items of sub-headings 5209 11 and 5209 12, the entry "10%" shall be substituted;

(*xii*) in tariff item 5209 19 00, for the entry in column (4), the entry "10%" shall be substituted;

(*xiii*) for the entry in column (4) occurring against all the tariff items of sub-headings 5209 21, 5209 22 and 5209 29, the entry "10%" shall be substituted;

(*xiv*) for the entry in column (4) occurring against all the tariff items of sub-headings 5209 31, 5209 32 and 5209 39, the entry "10% or Rs. 150 per kg., whichever is higher" shall be substituted;

(*xv*) for the entry in column (4) occurring against all the tariff items of sub-heading 5209 41, the entry "10% or Rs. 32 per sq. metre, whichever is higher" shall be substituted;

(*xvi*) in tariff item 5209 42 00, for the entry in column (4), the entry "10% or Rs. 25 per sq. metre, whichever is higher" shall be substituted;

(*xvii*) for the entry in column (4) occurring against all the tariff items of sub-heading 5209 43, the entry "10% or Rs. 30 per sq. metre, whichever is higher" shall be substituted;

(*xviii*) for the entry in column (4) occurring against all the tariff items of sub-heading 5209 49, the entry "10% or Rs. 150 per kg., whichever is higher" shall be substituted;

(*xix*) for the entry in column (4) occurring against all the tariff items of sub-headings 5209 51 and 5209 52, the entry "10% or Rs. 30 per sq. metre, whichever is higher" shall be substituted;

(*xx*) for the entry in column (4) occurring against all the tariff items of sub-heading 5209 59, the entry "10% or Rs. 38 per sq. metre, whichever is higher" shall be substituted;

(*xxi*) for the entry in column (4) occurring against all the tariff items of sub-heading 5210 11, the entry "10%" shall be substituted;

(*xxii*) in tariff item 5210 19 00, for the entry in column (4), the entry "10%" shall be substituted;

(*xxiii*) for the entry in column (4) occurring against all the tariff items of sub-headings 5210 21, 5210 29, 5210 31 and 5210 32, the entry "10%" shall be substituted;

(*xxiv*) for the entry in column (4) occurring against all the tariff items of sub-heading 5210 39, the entry "10% or Rs. 150 per kg., whichever is higher" shall be substituted;

(*xxv*) for the entry in column (4) occurring against all the tariff items of sub-heading 5210 41, the entry "10% or Rs. 15 per sq. metre, whichever is higher" shall be substituted;

(*xxvi*) for the entry in column (4) occurring against all the tariff items of sub-heading 5210 49, the entry "10% or Rs. 185 per kg., whichever is higher" shall be substituted;

(*xxvii*) for the entry in column (4) occurring against all the tariff items of sub-headings 5210 51 and 5210 59, the entry "10% or Rs. 15 per sq. metre, whichever is higher" shall be substituted;

(*xxviii*) for the entry in column (4) occurring against all the tariff items of sub-headings 5211 11 and 5211 12, the entry "10%" shall be substituted;

(*xxix*) in tariff item 5211 19 00, for the entry in column (4), the entry "10%" shall be substituted;

(*xxx*) for the entry in column (4) occurring against all the tariff items of sub-heading 5211 20, the entry "10%" shall be substituted;

(*xxxi*) for the entry in column (4) occurring against all the tariff items of sub-headings 5211 31, 5211 32 and 5211 39, the entry "10% or Rs. 150 per kg., whichever is higher" shall be substituted;

(*xxxii*) for the entry in column (4) occurring against all the tariff items of sub-heading 5211 41, the entry "10% or Rs. 44 per sq. metre, whichever is higher" shall be substituted;

(*xxxiii*) in tariff item 5211 42 00, for the entry in column (4), the entry "10% or Rs. 18 per sq. metre, whichever is higher" shall be substituted;

(*xxxiv*) for the entry in column (4) occurring against all the tariff items of sub-heading 5211 43, the entry "10% or Rs. 40 per sq. metre, whichever is higher" shall be substituted;

(*xxxv*) for the entry in column (4) occurring against all the tariff items of sub-heading 5211 49, the entry "10% or Rs. 150 per kg., whichever is higher" shall be substituted;

(*xxxvi*) for the entry in column (4) occurring against all the tariff items of sub-headings 5211 51, 5211 52 and 5211 59, the entry "10% or Rs. 18 per sq. metre, whichever is higher" shall be substituted;

(*xxxvii*) in tariff items 5212 11 00, 5212 12 00, 5212 13 00 and 5212 14 00, for the entry in column (4) occurring against each of them, the entry "10%" shall be substituted;

(*xxxviii*) in tariff item 5212 15 00, for the entry in column (4), the entry "10% or Rs. 165 per kg., whichever is higher" shall be substituted;

(*xxxix*) in tariff items 5212 21 00, 5212 22 00 and 5212 23 00, for the entry in column (4) occurring against each of them, the entry "10%" shall be substituted;

(*xl*) in tariff item 5212 24 00, for the entry in column (4), the entry "10% or Rs. 20 per sq. metre, whichever is higher" shall be substituted;

(*xli*) in tariff item 5212 25 00, for the entry in column (4), the entry "10% or Rs. 165 per kg., whichever is higher" shall be substituted;

(*31*) in Chapter 53, for the entry in column (4) occurring against all the tariff items (except all the tariff items of headings 5301 and 5302), the entry "10%" shall be substituted;

(*32*) in Chapter 54,—

(*i*) for the entry in column (4) occurring against all the tariff items of headings 5401, 5402, 5403 and 5404, the entry "10%" shall be substituted;

(*ii*) in tariff item 5405 00 00, for the entry in column (4), the entry "10%" shall be substituted;

(*iii*) for the entry in column (4) occurring against all the tariff items of sub-heading 5406 00, the entry "10%" shall be substituted;

(*iv*) for the entry in column (4) occurring against all the tariff items of sub-heading 5407 10, the entry "10% or Rs. 115 per kg., whichever is higher" shall be substituted;

(*v*) for the entry in column (4) occurring against all the tariff items of sub-headings 5407 20 and 5407 30, the entry "10%" shall be substituted;

(*vi*) for the entry in column (4) occurring against all the tariff items of sub-heading 5407 41, the entry "10% or Rs. 30 per sq. metre, whichever is higher" shall be substituted;

(*vii*) for the entry in column (4) occurring against all the tariff items of sub-heading 5407 42, the entry "10% or Rs. 60 per sq. metre, whichever is higher" shall be substituted;

(*viii*) in tariff item 5407 43 00, for the entry in column (4), the entry "10% or Rs. 67 per sq. metre, whichever is higher" shall be substituted;

(*ix*) for the entry in column (4) occurring against all the tariff items of sub-heading 5407 44, the entry "10% or Rs. 58 per sq. metre, whichever is higher" shall be substituted;

(*x*) for the entry in column (4) occurring against all the tariff items of sub-heading 5407 51, the entry "10% or Rs. 11 per sq. metre, whichever is higher" shall be substituted;

(*xi*) for the entry in column (4) occurring against all the tariff items of sub-heading 5407 52, the entry "10% or Rs. 38 per sq. metre, whichever is higher" shall be substituted;

(*xii*) in tariff item 5407 53 00, for the entry in column (4), the entry "10% or Rs. 50 per sq. metre, whichever is higher" shall be substituted;

(*xiii*) for the entry in column (4) occurring against all the tariff items of sub-heading 5407 54, the entry "10% or Rs. 20 per sq. metre, whichever is higher" shall be substituted;

(*xiv*) for the entry in column (4) occurring against all the tariff items of sub-heading 5407 61, the entry "10% or Rs. 150 per kg., whichever is higher" shall be substituted;

(*xv*) in tariff item 5407 69 00, for the entry in column (4), the entry "10% or Rs. 60 per sq. metre, whichever is higher" shall be substituted;

(*xvi*) for the entry in column (4) occurring against all the tariff items of sub-heading 5407 71, the entry "10% or Rs. 10 per sq. metre, whichever is higher" shall be substituted;

(*xvii*) in tariff item 5407 72 00, for the entry in column (4), the entry "10% or Rs. 24 per sq. metre, whichever is higher" shall be substituted;

(*xviii*) in tariff item 5407 73 00, for the entry in column (4), the entry "10% or Rs. 60 per sq. metre, whichever is higher" shall be substituted;

(*xix*) in tariff item 5407 74 00, for the entry in column (4), the entry "10% or Rs. 38 per sq. metre, whichever is higher" shall be substituted;

(*xx*) for the entry in column (4) occurring against all the tariff items of sub-heading 5407 81, the entry "10% or Rs. 10 per sq. metre, whichever is higher" shall be substituted;

(*xxi*) for the entry in column (4) occurring against all the tariff items of sub-heading 5407 82, the entry "10% or Rs. 42 per sq. metre, whichever is higher" shall be substituted;

(*xxii*) in tariff item 5407 83 00, for the entry in column (4), the entry "10% or Rs. 67 per sq. metre, whichever is higher" shall be substituted;

(*xxiii*) for the entry in column (4) occurring against all the tariff items of sub-heading 5407 84, the entry "10% or Rs. 38 per sq. metre, whichever is higher" shall be substituted;

(*xxiv*) for the entry in column (4) occurring against all the tariff items of sub-heading 5407 91, the entry "10% or Rs. 15 per sq. metre, whichever is higher" shall be substituted;

(*xxv*) in tariff item 5407 92 00, for the entry in column (4), the entry "10% or Rs. 67 per sq. metre, whichever is higher" shall be substituted;

(*xxvi*) in tariff item 5407 93 00, for the entry in column (4), the entry "10% or Rs. 45 per sq. metre, whichever is higher" shall be substituted;

(*xxvii*) in tariff item 5407 94 00, for the entry in column (4), the entry "10% or Rs. 67 per sq. metre, whichever is higher" shall be substituted;

(*xxviii*) in tariff item 5408 10 00, for the entry in column (4), the entry "10%" shall be substituted;

(*xxix*) for the entry in column (4) occurring against all the tariff items of sub-heading 5408 21, the entry "10%" shall be substituted;

(*xxx*) for the entry in column (4) occurring against all the tariff items of sub-heading 5408 22, the entry "10% or Rs. 45 per sq. metre, whichever is higher" shall be substituted;

(*xxxi*) in tariff item 5408 23 00, for the entry in column (4), the entry "10% or Rs. 47 per sq. metre, whichever is higher" shall be substituted;

(*xxxii*) for the entry in column (4) occurring against all the tariff items of sub-heading 5408 24, the entry "10% or Rs. 87 per sq. metre, whichever is higher" shall be substituted;

(*xxxiii*) for the entry in column (4) occurring against all the tariff items of sub-heading 5408 31, the entry "10% or Rs. 25 per sq. metre, whichever is higher" shall be substituted;

(*xxxiv*) for the entry in column (4) occurring against all the tariff items of sub-heading 5408 32, the entry "10% or Rs. 44 per sq. metre, whichever is higher" shall be substituted;

(*xxxv*) in tariff item 5408 33 00, for the entry in column (4), the entry "10% or Rs. 10 per sq. metre, whichever is higher" shall be substituted;

(*xxxvi*) for the entry in column (4) occurring against all the tariff items of sub-heading 5408 34, the entry "10% or Rs. 11 per sq. metre, whichever is higher" shall be substituted;

(*33*) in Chapter 55,—

(*i*) for the entry in column (4) occurring against all the tariff items of headings 5501, 5502, 5503, 5504, 5505, 5506, 5507, 5508, 5509 and 5510, the entry "10%" shall be substituted;

(*ii*) in tariff items 5511 10 00 and 5511 20 00, for the entry in column (4) occurring against each of them, the entry "10% or Rs. 31 per kg., whichever is higher" shall be substituted;

(*iii*) for the entry in column (4) occurring against all the tariff items of sub-heading 5511 30, the entry "10% or Rs.30 per kg., whichever is higher" shall be substituted;

(*iv*) for the entry in column (4) occurring against all the tariff items of sub-heading 5512 11, the entry "10%" shall be substituted;

(*v*) for the entry in column (4) occurring against all the tariff items of sub-heading 5512 19, the entry "10%" or Rs.42 per sq. metre, whichever is higher" shall be substituted;

(*vi*) for the entry in column (4) occurring against all the tariff items of sub-heading 5512 21, the entry "10%" shall be substituted;

(*vii*) for the entry in column (4) occurring against all the tariff items of sub-heading 5512 29, the entry "10% or Rs.47 per sq. metre, whichever is higher" shall be substituted;

(*viii*) for the entry in column (4) occurring against all the tariff items of sub-heading 5512 91, the entry "10%" shall be substituted;

(*ix*) for the entry in column (4) occurring against all the tariff items of sub-heading 5512 99, the entry "10% or Rs.65 per kg., whichever is higher" shall be substituted;

(*x*) for the entry in column (4) occurring against all the tariff items of sub-headings 5513 11, 5513 12, 5513 13 and 5513 19, the entry "10%" shall be substituted;

(*xi*) in tariff item 5513 21 00, for the entry in column (4), the entry "10% or Rs. 150 per kg., whichever is higher" shall be substituted;

(*xii*) in tariff item 5513 23 00, for the entry in column (4), the entry "10% or Rs. 125 per kg. or Rs. 25 per sq. metre, whichever is highest" shall be substituted;

(*xiii*) in tariff item 5513 29 00, for the entry in column (4), the entry "10% or Rs. 185 per kg., whichever is higher" shall be substituted;

(*xiv*) in tariff item 5513 31 00, for the entry in column (4), the entry "10% or Rs. 21 per sq. metre, whichever is higher" shall be substituted;

(*xv*) in tariff item 5513 39 00, for the entry in column (4), the entry "10% or Rs. 125 per kg. or Rs. 30 per sq. metre, whichever is highest" shall be substituted;

(*xvi*) in tariff item 5513 41 00, for the entry in column (4), the entry "10% or Rs. 25 per sq. metre, whichever is higher" shall be substituted;

(*xvii*) in tariff item 5513 49 00, for the entry in column (4), the entry "10% or Rs. 185 per kg., whichever is higher" shall be substituted;

(*xviii*) for the entry in column (4) occurring against all the tariff items of sub-headings 5514 11, 5514 12 and 5514 19, the entry "10%" shall be substituted;

(*xix*) in tariff item 5514 21 00, for the entry in column (4), the entry "10% or Rs. 100 per kg. or Rs. 30 per sq. metre, whichever is highest" shall be substituted;

(*xx*) in tariff item 5514 22 00, for the entry in column (4), the entry "10% or Rs. 140 per kg., whichever is higher" shall be substituted;

(*xxi*) in tariff item 5514 23 00, for the entry in column (4), the entry "10% or Rs. 160 per kg., whichever is higher" shall be substituted;

(*xxii*) in tariff item 5514 29 00, for the entry in column (4), the entry "10% or Rs. 170 per kg., whichever is higher" shall be substituted;

(*xxiii*) in tariff item 5514 30 11, for the entry in column (4), the entry "10% or Rs. 64 per sq. metre, whichever is higher" shall be substituted;

(*xxiv*) in tariff item 5514 30 12, for the entry in column (4), the entry "10% or Rs. 43 per sq. metre, whichever is higher" shall be substituted;

(*xxv*) in tariff item 5514 30 13, for the entry in column (4), the entry "10% or Rs. 180 per kg., whichever is higher" shall be substituted;

(*xxvi*) in tariff item 5514 30 19, for the entry in column (4), the entry "10% or Rs. 31 per sq. metre, whichever is higher" shall be substituted;

(*xxvii*) in tariff item 5514 41 00, for the entry in column (4), the entry "10% or Rs. 26 per sq. metre, whichever is higher" shall be substituted;

(*xxviii*) in tariff item 5514 42 00, for the entry in column (4), the entry "10% or Rs. 140 per kg., whichever is higher" shall be substituted;

(*xxix*) in tariff item 5514 43 00, for the entry in column (4), the entry "10% or Rs. 31 per sq. metre, whichever is higher" shall be substituted;

(*xxx*) in tariff item 5514 49 00, for the entry in column (4), the entry "10% or Rs. 160 per kg., whichever is higher" shall be substituted;

(*xxxi*) for the entry in column (4) occurring against all the tariff items of sub-heading 5515 11, the entry "10% or Rs. 40 per sq. metre, whichever is higher" shall be substituted;

(*xxxii*) for the entry in column (4) occurring against all the tariff items of sub-heading 5515 12, the entry "10% or Rs. 95 per kg., whichever is higher" shall be substituted;

(*xxxiii*) for the entry in column (4) occurring against all the tariff items of sub-heading 5515 13, the entry "10% or Rs. 75 per sq. metre, whichever is higher" shall be substituted;

(*xxxiv*) for the entry in column (4) occurring against all the tariff items of sub-heading 5515 19, the entry "10% or Rs. 45 per sq. metre, whichever is higher" shall be substituted;

(*xxxv*) for the entry in column (4) occurring against all the tariff items of sub-heading 5515 21, the entry "10% or Rs. 79 per sq. metre, whichever is higher" shall be substituted;

(*xxxvi*) for the entry in column (4) occurring against all the tariff items of sub-heading 5515 22, the entry "10% or Rs. 140 per kg., whichever is higher" shall be substituted;

(*xxxvii*) for the entry in column (4) occurring against all the tariff items of sub-heading 5515 29, the entry "10% or Rs. 30 per sq. metre, whichever is higher" shall be substituted;

(*xxxviii*) for the entry in column (4) occurring against all the tariff items of sub-heading 5515 91, the entry "10% or Rs. 57 per sq. metre, whichever is higher" shall be substituted;

(*xxxix*) for the entry in column (4) occurring against all the tariff items of sub-heading 5515 99, the entry "10% or Rs. 35 per sq. metre, whichever is higher" shall be substituted;

(*xl*) for the entry in column (4) occurring against all the tariff items of sub-heading 5516 11, the entry "10%" shall be substituted;

(*xli*) in tariff item 5516 12 00, for the entry in column (4), the entry "10% or Rs. 35 per sq. metre, whichever is higher" shall be substituted;

(*xlii*) in tariff item 5516 13 00, for the entry in column (4), the entry "10% or Rs. 40 per sq. metre, whichever is higher" shall be substituted;

(*xliii*) for the entry in column (4) occurring against all the tariff items of sub-heading 5516 14, the entry "10% or Rs. 12 per sq. metre, whichever is higher" shall be substituted;

(*xliv*) for the entry in column (4) occurring against all the tariff items of sub-heading 5516 21, the entry "10%" shall be substituted;

(*xlv*) in tariff items 5516 22 00 and 5516 23 00, for the entry in column (4) occurring against each of them, the entry "10% or Rs. 150 per kg., whichever is higher" shall be substituted;

(*xlvi*) in tariff item 5516 24 00, for the entry in column (4), the entry "10% or Rs. 12 per sq. metre, whichever is higher" shall be substituted;

(*xlvii*) for the entry in column (4) occurring against all the tariff items of sub-heading 5516 31, the entry "10%" shall be substituted;

(*xlviii*) in tariff items 5516 32 00, 5516 33 00 and 5516 34 00, for the entry in column (4) occurring against each of them, the entry "10%" shall be substituted;

(*xlix*) for the entry in column (4) occurring against all the tariff items of sub-heading 5516 41, the entry "10%" shall be substituted;

(*l*) in tariff item 5516 42 00, for the entry in column (4), the entry "10%" shall be substituted;

(*li*) in tariff items 5516 43 00 and 5516 44 00, for the entry in column (4) occurring against each of them, the entry "10% or Rs. 12 per sq. metre, whichever is higher" shall be substituted;

(*lii*) for the entry in column (4) occurring against all the tariff items of sub-heading 5516 91, the entry "10%" shall be substituted;

(*liii*) in tariff item 5516 92 00, for the entry in column (4), the entry "10%" shall be substituted;

(*liv*) in tariff item 5516 93 00, for the entry in column (4), the entry "10% or Rs. 21 per sq. metre, whichever is higher" shall be substituted;

(*lv*) in tariff item 5516 94 00, for the entry in column (4), the entry "10% or Rs. 40 per sq. metre, whichever is higher" shall be substituted;

(*34*) in Chapter 56, for the entry in column (4) occurring against all the tariff items, the entry "10%" shall be substituted;

(*35*) in Chapter 57,—

(*i*) for the entry in column (4) occurring against all the tariff items of heading 5701, the entry "10%" shall be substituted;

(*ii*) in tariff item 5702 10 00, for the entry in column (4), the entry "10%" shall be substituted;

(*iii*) for the entry in column (4) occurring against all the tariff items of sub-headings 5702 20 and 5702 31, the entry "10%" shall be substituted;

(*iv*) for the entry in column (4) occurring against all the tariff items of sub-heading 5702 32, the entry "10% or Rs.105 per sq. metre, whichever is higher" shall be substituted;

(*v*) for the entry in column (4) occurring against all the tariff items of sub-headings 5702 39 and 5702 41, the entry "10%" shall be substituted;

(*vi*) for the entry in column (4) occurring against all the tariff items of sub-heading 5702 42, the entry "10% or Rs.80 per sq. metre, whichever is higher" shall be substituted;

(*vii*) for the entry in column (4) occurring against all the tariff items of sub-heading 5702 49, the entry "10%" shall be substituted;

(*viii*) in tariff items 5702 50 21, 5702 50 22 and 5702 50 29, for the entry in column (4) occurring against each of them, the entry "10% or Rs.105 per sq. metre, whichever is higher" shall be substituted;

(*ix*) in tariff items 5702 50 31, 5702 50 32, 5702 50 33 and 5702 50 39, for the entry in column (4) occurring against each of them, the entry "10%" shall be substituted;

(*x*) for the entry in column (4) occurring against all the tariff items of sub-heading 5702 91, the entry "10%" shall be substituted;

(*xi*) for the entry in column (4) occurring against all the tariff items of sub-heading 5702 92, the entry "10% or Rs.110 per sq. metre, whichever is higher" shall be substituted;

(*xii*) for the entry in column (4) occurring against all the tariff items of sub-headings 5702 99 and 5703 10, the entry "10%" shall be substituted;

(*xiii*) for the entry in column (4) occurring against all the tariff items of sub-heading 5703 20, the entry "10% or Rs.70 per sq. metre, whichever is higher" shall be substituted;

(*xiv*) for the entry in column (4) occurring against all the tariff items of sub-heading 5703 30, the entry "10% or Rs.55 per sq. metre, whichever is higher" shall be substituted;

(*xv*) for the entry in column (4) occurring against all the tariff items of sub-heading 5703 90, the entry "10%" shall be substituted;

(*xvi*) in tariff item 5704 10 00, for the entry in column (4), the entry "10%" shall be substituted;

(*xvii*) for the entry in column (4) occurring against all the tariff items of sub-heading 5704 90, the entry "10% or Rs.35 per sq. metre, whichever is higher" shall be substituted;

(*xviii*) for the entry in column (4) occurring against all the tariff items of heading 5705, the entry "10%" shall be substituted;

(*36*) in Chapter 58,—

(*i*) in tariff item 5801 10 00, for the entry in column (4), the entry "10% or Rs. 210 per sq. metre, whichever is higher" shall be substituted;

(*ii*) in tariff item 5801 21 00, for the entry in column (4), the entry "10% or Rs. 80 per sq. metre, whichever is higher" shall be substituted;

(*iii*) for the entry in column (4) occurring against all the tariff items of sub-heading 5801 22, the entry "10% or Rs. 75 per sq. metre, whichever is higher" shall be substituted;

(*iv*) in tariff item 5801 23 00, for the entry in column (4), the entry "10% or Rs. 80 per sq. metre, whichever is higher" shall be substituted;

(*v*) in tariff item 5801 24 00, for the entry in column (4), the entry "10% or Rs. 135 per sq. metre, whichever is higher" shall be substituted;

(*vi*) in tariff item 5801 25 00, for the entry in column (4), the entry "10% or Rs. 120 per sq. metre, whichever is higher" shall be substituted;

(*vii*) in tariff item 5801 26 00, for the entry in column (4), the entry "10% or Rs. 180 per sq. metre, whichever is higher" shall be substituted;

(*viii*) in tariff item 5801 31 00, for the entry in column (4), the entry "10% or Rs. 75 per sq. metre, whichever is higher" shall be substituted;

(*ix*) in tariff item 5801 32 00, for the entry in column (4), the entry "10% or Rs. 180 per sq. metre, whichever is higher" shall be substituted;

(*x*) in tariff item 5801 33 00, for the entry in column (4), the entry "10% or Rs. 150 per sq. metre, whichever is higher" shall be substituted;

(*xi*) for the entry in column (4) occurring against all the tariff items of sub-heading 5801 34, the entry "10% or Rs. 140 per sq. metre, whichever is higher" shall be substituted;

(*xii*) in tariff item 5801 35 00, for the entry in column (4), the entry "10% or Rs. 68 per sq. metre, whichever is higher" shall be substituted;

(*xiii*) for the entry in column (4) occurring against all the tariff items of sub-heading 5801 36, the entry "10% or Rs. 130 per sq. metre, whichever is higher" shall be substituted;

(*xiv*) for the entry in column (4) occurring against all the tariff items of sub-heading 5801 90, the entry "10% or Rs. 35 per sq. metre, whichever is higher" shall be substituted;

(*xv*) in tariff item 5802 11 00, for the entry in column (4), the entry "10%" shall be substituted;

(*xvi*) for the entry in column (4) occurring against all the tariff items of sub-heading 5802 19, the entry "10% or Rs. 60 per sq. metre, whichever is higher" shall be substituted;

(*xvii*) in tariff item 5802 20 00, for the entry in column (4), the entry "10%" shall be substituted;

(*xviii*) in tariff item 5802 30 00, for the entry in column (4), the entry "10% or Rs. 150 per kg., whichever is higher" shall be substituted;

(*xix*) for the entry in column (4) occurring against all the tariff items of heading 5803, the entry "10%" shall be substituted;

(*xx*) for the entry in column (4) occurring against all the tariff items of heading 5804, the entry "10% or Rs.200 per kg., whichever is higher" shall be substituted;

(*xxi*) for the entry in column (4) occurring against all the tariff items of headings 5805, 5806, 5807, 5808 and 5809, the entry "10%" shall be substituted;

(*xxii*) in tariff item 5810 10 00, for the entry in column (4), the entry "10% or Rs. 200 per kg., whichever is higher" shall be substituted;

(*xxiii*) in tariff item 5810 91 00, for the entry in column (4), the entry "10%" shall be substituted;

(*xxiv*) for the entry in column (4) occurring against all the tariff items of sub-heading 5810 92, the entry "10%" shall be substituted;

(*xxv*) in tariff item 5810 99 00, for the entry in column (4), the entry "10%" shall be substituted;

(*xxvi*) for the entry in column (4) occurring against all the tariff items of heading 5811, the entry "10%" shall be substituted;

(*37*) in Chapter 59, for the entry in column (4) occurring against all the tariff items, the entry "10%" shall be substituted;

(*38*) in Chapter 60,—

(*i*) for the entry in column (4) occurring against all the tariff items (except tariff item 6001 92 00), the entry "10%" shall be substituted;

(*ii*) in tariff item 6001 92 00, for the entry in column (4), the entry "10% or Rs. 100 per kg., whichever is higher" shall be substituted;

(*39*) in Chapter 61,—

(*i*) in tariff item 6101 20 00, for the entry in column (4), the entry "10% or Rs. 540 per piece, whichever is higher" shall be substituted;

(*ii*) for the entry in column (4) occurring against all the tariff items of sub-heading 6101 30, the entry "10% or Rs. 530 per piece, whichever is higher" shall be substituted;

(*iii*) for the entry in column (4) occurring against all the tariff items of sub-heading 6101 90, the entry "10%" shall be substituted;

(*iv*) in tariff item 6102 10 00, for the entry in column (4), the entry "10% or Rs. 595 per piece, whichever is higher" shall be substituted;

(*v*) in tariff item 6102 20 00, for the entry in column (4), the entry "10% or Rs. 425 per piece, whichever is higher" shall be substituted;

(*vi*) for the entry in column (4) occurring against all the tariff items of sub-heading 6102 30, the entry "10% or Rs. 475 per piece, whichever is higher" shall be substituted;

(*vii*) for the entry in column (4) occurring against all the tariff items of sub-heading 6102 90, the entry "10%" shall be substituted;

(*viii*) for the entry in column (4) occurring against all the tariff items of heading 6103, the entry "10%" shall be substituted;

(*ix*) in tariff item 6104 13 00, for the entry in column (4), the entry "10%" shall be substituted;

(*x*) for the entry in column (4) occurring against all the tariff items of sub-heading 6104 19, the entry "10% or Rs. 460 per piece, whichever is higher" shall be substituted;

(*xi*) in tariff items 6104 22 00 and 6104 23 00, for the entry in column (4) occurring against each of them, the entry "10%" shall be substituted;

(*xii*) for the entry in column (4) occurring against all the tariff items of sub-heading 6104 29, the entry "10%" shall be substituted;

(*xiii*) in tariff items 6104 31 00, 6104 32 00 and 6104 33 00, for the entry in column (4) occurring against each of them, the entry "10%" shall be substituted;

(*xiv*) for the entry in column (4) occurring against all the tariff items of sub-heading 6104 39, the entry "10%" shall be substituted;

(*xv*) in tariff item 6104 41 00, for the entry in column (4), the entry "10% or Rs. 255 per piece, whichever is higher" shall be substituted;

(*xvi*) in tariff item 6104 42 00, for the entry in column (4), the entry "10%" shall be substituted;

(*xvii*) in tariff items 6104 43 00 and 6104 44 00, for the entry in column (4) occurring against each of them, the entry "10% or Rs. 255 per piece, whichever is higher" shall be substituted;

(*xviii*) for the entry in column (4) occurring against all the tariff items of sub-heading 6104 49, the entry "10% or Rs. 220 per piece, whichever is higher" shall be substituted;

(*xix*) in tariff items 6104 51 00, 6104 52 00 and 6104 53 00, for the entry in column (4) occurring against each of them, the entry "10% or Rs. 110 per piece, whichever is higher" shall be substituted;

(*xx*) for the entry in column (4) occurring against all the tariff items of sub-heading 6104 59, the entry "10% or Rs. 110 per piece, whichever is higher" shall be substituted;

(*xxi*) in tariff item 6104 61 00, for the entry in column (4), the entry "10%" shall be substituted;

(*xxii*) in tariff items 6104 62 00 and 6104 63 00, for the entry in column (4) occurring against each of them, the entry "10% or Rs. 98 per piece, whichever is higher" shall be substituted;

(*xxiii*) for the entry in column (4) occurring against all the tariff items of sub-heading 6104 69, the entry "10%" shall be substituted;

(*xxiv*) for the entry in column (4) occurring against all the tariff items of sub-headings 6105 10 and 6105 20, the entry "10% or Rs. 83 per piece, whichever is higher" shall be substituted;

(*xxv*) for the entry in column (4) occurring against all the tariff items of sub-heading 6105 90, the entry "10% or Rs. 90 per piece, whichever is higher" shall be substituted;

(*xxvi*) in tariff item 6106 10 00, for the entry in column (4), the entry "10% or Rs. 90 per piece, whichever is higher" shall be substituted;

(*xxvii*) for the entry in column (4) occurring against all the tariff items of sub-heading 6106 20, the entry "10% or Rs. 25 per piece, whichever is higher" shall be substituted;

(*xxviii*) for the entry in column (4) occurring against all the tariff items of sub-heading 6106 90, the entry "10% or Rs. 135 per piece, whichever is higher" shall be substituted;

(*xxix*) in tariff item 6107 11 00, for the entry in column (4), the entry "10% or Rs. 24 per piece, whichever is higher" shall be substituted;

(*xxx*) for the entry in column (4) occurring against all the tariff items of sub-heading 6107 12, the entry "10% or Rs. 30 per piece, whichever is higher" shall be substituted;

(*xxxi*) for the entry in column (4) occurring against all the tariff items of sub-heading 6107 19, the entry "10%" shall be substituted;

(*xxxii*) in tariff item 6107 21 00, for the entry in column (4), the entry "10%" shall be substituted;

(*xxxiii*) for the entry in column (4) occurring against all the tariff items of sub-headings 6107 22, 6107 29, 6107 91 and 6107 99, the entry "10%" shall be substituted;

(*xxxiv*) for the entry in column (4) occurring against all the tariff items of sub-headings 6108 11 and 6108 19, the entry "10%" shall be substituted;

(*xxxv*) in tariff item 6108 21 00, for the entry in column (4), the entry "10% or Rs. 25 per piece, whichever is higher" shall be substituted;

(*xxxvi*) for the entry in column (4) occurring against all the tariff items of sub-heading 6108 22, the entry "10% or Rs. 25 per piece, whichever is higher" shall be substituted;

(*xxxvii*) for the entry in column (4) occurring against all the tariff items of sub-heading 6108 29, the entry "10%" shall be substituted;

(*xxxviii*) in tariff item 6108 31 00, for the entry in column (4), the entry "10%" shall be substituted;

(*xxxix*) for the entry in column (4) occurring against all the tariff items of sub-headings 6108 32 and 6108 39, the entry "10%" shall be substituted;

(*xl*) in tariff item 6108 91 00, for the entry in column (4), the entry "10% or Rs. 65 per piece, whichever is higher" shall be substituted;

(*xli*) for the entry in column (4) occurring against all the tariff items of sub-heading 6108 92, the entry "10% or Rs. 60 per piece, whichever is higher" shall be substituted;

(*xlii*) for the entry in column (4) occurring against all the tariff items of sub-heading 6108 99, the entry "10%" shall be substituted;

(*xliii*) in tariff item 6109 10 00, for the entry in column (4), the entry "10% or Rs. 45 per piece, whichever is higher" shall be substituted;

(*xliv*) for the entry in column (4) occurring against all the tariff items of sub-heading 6109 90, the entry "10% or Rs. 50 per piece, whichever is higher" shall be substituted;

(*xlv*) for the entry in column (4) occurring against all the tariff items of sub-heading 6110 11, the entry "10% or Rs. 275 per piece, whichever is higher" shall be substituted;

(*xlvi*) in tariff items 6110 12 00 and 6110 19 00, for the entry in column (4) occurring against each of them, the entry "10% or Rs. 275 per piece, whichever is higher" shall be substituted;

(*xlvii*) in tariff item 6110 20 00, for the entry in column (4), the entry "10% or Rs. 85 per piece, whichever is higher" shall be substituted;

(*xlviii*) for the entry in column (4) occurring against all the tariff items of sub-heading 6110 30, the entry "10% or Rs. 110 per piece, whichever is higher" shall be substituted;

(*xlix*) in tariff item 6110 90 00, for the entry in column (4), the entry "10% or Rs.105 per piece, whichever is higher" shall be substituted;

(*l*) for the entry in column (4) occurring against all the tariff items of headings 6111 and 6112, the entry "10%" shall be substituted;

(*li*) in tariff item 6113 00 00, for the entry in column (4), the entry "10%" shall be substituted;

(*lii*) for the entry in column (4) occurring against all the tariff items of headings 6114, 6115, 6116 and 6117, the entry "10%" shall be substituted;

(*40*) in Chapter 62,—

(*i*) in tariff item 6201 11 00, for the entry in column (4), the entry "10% or Rs. 385 per piece, whichever is higher" shall be substituted;

(*ii*) for the entry in column (4) occurring against all the tariff items of sub-heading 6201 12, the entry "10% or Rs. 385 per piece, whichever is higher" shall be substituted;

(*iii*) for the entry in column (4) occurring against all the tariff items of sub-heading 6201 13, the entry "10% or Rs. 320 per piece, whichever is higher" shall be substituted;

(*iv*) for the entry in column (4) occurring against all the tariff items of sub-heading 6201 19, the entry "10%" shall be substituted;

(*v*) in tariff item 6201 91 00, for the entry in column (4), the entry "10% or Rs. 220 per piece, whichever is higher" shall be substituted;

(*vi*) in tariff item 6201 92 00, for the entry in column (4), the entry "10% or Rs. 210 per piece, whichever is higher" shall be substituted;

(*vii*) in tariff item 6201 93 00, for the entry in column (4), the entry "10% or Rs. 180 per piece, whichever is higher" shall be substituted;

(*viii*) for the entry in column (4) occurring against all the tariff items of sub-heading 6201 99, the entry "10%" shall be substituted;

(*ix*) for the entry in column (4) occurring against all the tariff items of sub-heading 6202 11, the entry "10% or Rs. 385 per piece, whichever is higher" shall be substituted;

(*x*) in tariff item 6202 12 00, for the entry in column (4), the entry "10% or Rs. 210 per piece, whichever is higher" shall be substituted;

(*xi*) in tariff item 6202 13 00, for the entry in column (4), the entry "10% or Rs. 385 per piece, whichever is higher" shall be substituted;

(*xii*) for the entry in column (4) occurring against all the tariff items of sub-heading 6202 19, the entry "10%" shall be substituted;

(*xiii*) for the entry in column (4) occurring against all the tariff items of sub-heading 6202 91, the entry "10% or Rs. 220 per piece, whichever is higher" shall be substituted;

(*xiv*) for the entry in column (4) occurring against all the tariff items of sub-heading 6202 92, the entry "10% or Rs. 160 per piece, whichever is higher" shall be substituted;

(*xv*) for the entry in column (4) occurring against all the tariff items of sub-heading 6202 93, the entry "10% or Rs. 220 per piece, whichever is higher" shall be substituted;

(*xvi*) for the entry in column (4) occurring against all the tariff items of sub-heading 6202 99, the entry "10%" shall be substituted;

(*xvii*) in tariff item 6203 11 00, for the entry in column (4), the entry "10% or Rs. 1100 per piece, whichever is higher" shall be substituted;

(*xviii*) in tariff item 6203 12 00, for the entry in column (4), the entry "10% or Rs. 720 per piece, whichever is higher" shall be substituted;

(*xix*) for the entry in column (4) occurring against all the tariff items of sub-heading 6203 19, the entry "10% or Rs. 1110 per piece, whichever is higher" shall be substituted;

(*xx*) in tariff items 6203 22 00, 6203 23 00 and 6203 29 00, for the entry in column (4) occurring against each of them, the entry "10% or Rs.145 per piece, whichever is higher" shall be substituted;

(*xxi*) in tariff item 6203 31 00, for the entry in column (4), the entry "10% or Rs. 815 per piece, whichever is higher" shall be substituted;

(*xxii*) in tariff item 6203 32 00, for the entry in column (4), the entry "10% or Rs. 440 per piece, whichever is higher" shall be substituted;

(*xxiii*) in tariff item 6203 33 00, for the entry in column (4), the entry "10% or Rs. 320 per piece, whichever is higher" shall be substituted;

(*xxiv*) for the entry in column (4) occurring against all the tariff items of sub-heading 6203 39, the entry "10% or Rs. 755 per piece, whichever is higher" shall be substituted;

(*xxv*) in tariff item 6203 41 00, for the entry in column (4), the entry "10% or Rs. 285 per piece, whichever is higher" shall be substituted;

(*xxvi*) in tariff item 6203 42 00, for the entry in column (4), the entry "10% or Rs. 135 per piece, whichever is higher" shall be substituted;

(*xxvii*) in tariff item 6203 43 00, for the entry in column (4), the entry "10% or Rs. 110 per piece, whichever is higher" shall be substituted;

(*xxviii*) for the entry in column (4) occurring against all the tariff items of sub-heading 6203 49, the entry "10% or Rs.110 per piece, whichever is higher" shall be substituted;

(*xxix*) in tariff item 6204 11 00, for the entry in column (4), the entry "10% or Rs. 550 per piece, whichever is higher" shall be substituted;

(*xxx*) in tariff item 6204 12 00, for the entry in column (4), the entry "10%" shall be substituted;

(*xxxi*) in tariff item 6204 13 00, for the entry in column (4), the entry "10% or Rs. 550 per piece, whichever is higher" shall be substituted;

(*xxxii*) for the entry in column (4) occurring against all the tariff items of sub-heading 6204 19, the entry "10% or Rs. 500 per piece, whichever is higher" shall be substituted;

(*xxxiii*) in tariff item 6204 21 00, for the entry in column (4), the entry "10%" shall be substituted;

(*xxxiv*) for the entry in column (4) occurring against all the tariff items of sub-heading 6204 22, the entry "10%" shall be substituted;

(*xxxv*) in tariff item 6204 23 00, for the entry in column (4), the entry "10%" shall be substituted;

(*xxxvi*) for the entry in column (4) occurring against all the tariff items of sub-heading 6204 29, the entry "10%" shall be substituted;

(*xxxvii*) in tariff item 6204 31 00, for the entry in column (4), the entry "10% or Rs. 370 per piece, whichever is higher" shall be substituted;

(*xxxviii*) in tariff item 6204 32 00, for the entry in column (4), the entry "10% or Rs. 650 per piece, whichever is higher" shall be substituted;

(*xxxix*) in tariff item 6204 33 00, for the entry in column (4), the entry "10% or Rs. 390 per piece, whichever is higher" shall be substituted;

(*xl*) for the entry in column (4) occurring against all the tariff items of sub-heading 6204 39, the entry "10% or Rs. 350 per piece, whichever is higher" shall be substituted;

(*xli*) for the entry in column (4) occurring against all the tariff items of sub-heading 6204 41, the entry "10% or Rs. 145 per piece, whichever is higher" shall be substituted;

(*xlii*) for the entry in column (4) occurring against all the tariff items of sub-heading 6204 42, the entry "10% or Rs. 116 per piece, whichever is higher" shall be substituted;

(*xliii*) for the entry in column (4) occurring against all the tariff items of sub-heading 6204 43, the entry "10% or Rs. 145 per piece, whichever is higher" shall be substituted;

(*xliv*) in tariff item 6204 44 00, for the entry in column (4), the entry "10% or Rs. 145 per piece, whichever is higher" shall be substituted;

(*xlv*) for the entry in column (4) occurring against all the tariff items of sub-heading 6204 49, the entry "10% or Rs. 145 per piece, whichever is higher" shall be substituted;

(*xlvi*) in tariff item 6204 51 00, for the entry in column (4), the entry "10% or Rs. 485 per piece, whichever is higher" shall be substituted;

(*xlvii*) in tariff items 6204 52 00 and 6204 53 00, for the entry in column (4) occurring against each of them, the entry "10%" shall be substituted;

(*xlviii*) for the entry in column (4) occurring against all the tariff items of sub-heading 6204 59, the entry "10%" shall be substituted;

(*xlix*) for the entry in column (4) occurring against all the tariff items of sub-heading 6204 61, the entry "10% or Rs. 285 per piece, whichever is higher" shall be substituted;

(*l*) in tariff item 6204 62 00, for the entry in column (4), the entry "10% or Rs. 135 per piece, whichever is higher" shall be substituted;

(*li*) in tariff item 6204 63 00, for the entry in column (4), the entry "10%" shall be substituted;

(*lii*) for the entry in column (4) occurring against all the tariff items of sub-heading 6204 69, the entry "10% or Rs. 135 per piece, whichever is higher" shall be substituted;

(*liii*) in tariff item 6205 20 00, for the entry in column (4), the entry "10% or Rs. 85 per piece, whichever is higher" shall be substituted;

(*liv*) in tariff item 6205 30 00, for the entry in column (4), the entry "10% or Rs. 120 per piece, whichever is higher" shall be substituted;

(*lv*) for the entry in column (4) occurring against all the tariff items of sub-heading 6205 90, the entry "10% or Rs. 95 per piece, whichever is higher" shall be substituted;

(*lvi*) for the entry in column (4) occurring against all the tariff items of sub-heading 6206 10, the entry "10%" shall be substituted;

(*lvii*) in tariff item 6206 20 00, for the entry in column (4), the entry "10% or Rs. 135 per piece, whichever is higher" shall be substituted;

(*lviii*) in tariff item 6206 30 00, for the entry in column (4), the entry "10% or Rs. 95 per piece, whichever is higher" shall be substituted;

(*lix*) in tariff item 6206 40 00, for the entry in column (4), the entry "10% or Rs. 120 per piece, whichever is higher" shall be substituted;

(*lx*) in tariff item 6206 90 00, for the entry in column (4), the entry "10%" shall be substituted;

(*lxi*) in tariff item 6207 11 00, for the entry in column (4), the entry "10% or Rs. 28 per piece, whichever is higher" shall be substituted;

(*lxii*) for the entry in column (4) occurring against all the tariff items of sub-heading 6207 19, the entry "10% or Rs. 30 per piece, whichever is higher" shall be substituted;

(*lxiii*) in tariff items 6207 21 00, 6207 22 00 and 6207 29 00, for the entry in column (4) occurring against each of them, the entry "10%" shall be substituted;

(*lxiv*) for the entry in column (4) occurring against all the tariff items of sub-heading 6207 91, the entry "10%" shall be substituted;

(*lxv*) for the entry in column (4) occurring against all the tariff items of sub-heading 6207 99, the entry "10% or Rs. 70 per piece, whichever is higher" shall be substituted;

(*lxvi*) in tariff item 6208 11 00, for the entry in column (4), the entry "10% or Rs. 80 per piece, whichever is higher" shall be substituted;

(*lxvii*) for the entry in column (4) occurring against all the tariff items of sub-heading 6208 19, the entry "10% or Rs. 60 per piece, whichever is higher" shall be substituted;

(*lxviii*) in tariff items 6208 21 00 and 6208 22 00, for the entry in column (4) occurring against each of them, the entry "10%" shall be substituted;

(*lxix*) for the entry in column (4) occurring against all the tariff items of sub-heading 6208 29, the entry "10%" shall be substituted;

(*lxx*) for the entry in column (4) occurring against all the tariff items of sub-heading 6208 91, the entry "10% or Rs. 95 per piece, whichever is higher" shall be substituted;

(*lxxi*) for the entry in column (4) occurring against all the tariff items of sub-heading 6208 92, the entry "10% or Rs. 65 per piece, whichever is higher" shall be substituted;

(*lxxii*) for the entry in column (4) occurring against all the tariff items of sub-heading 6208 99, the entry "10%" shall be substituted;

(*lxxiii*) for the entry in column (4) occurring against all the tariff items of heading 6209, the entry "10%" shall be substituted;

(*lxxiv*) in tariff item 6210 10 00, for the entry in column (4), the entry "10%" shall be substituted;

(*lxxv*) for the entry in column (4) occurring against all the tariff items of sub-heading 6210 20, the entry "10% or Rs. 365 per piece, whichever is higher" shall be substituted;

(*lxxvi*) for the entry in column (4) occurring against all the tariff items of sub-heading 6210 30, the entry "10% or Rs. 305 per piece, whichever is higher" shall be substituted;

(*lxxvii*) for the entry in column (4) occurring against all the tariff items of sub-heading 6210 40, the entry "10% or Rs. 65 per piece, whichever is higher" shall be substituted;

(*lxxviii*) in tariff item 6210 50 00, for the entry in column (4), the entry "10% or Rs. 65 per piece, whichever is higher" shall be substituted;

(*lxxix*) in tariff items 6211 11 00, 6211 12 00 and 6211 20 00, for the entry in column (4) occurring against each of them, the entry "10%" shall be substituted;

(*lxxx*) in tariff items 6211 32 00 and 6211 33 00, for the entry in column (4) occurring against each of them, the entry "10% or Rs.135 per piece, whichever is higher" shall be substituted;

(*lxxxi*) in tariff items 6211 39 00 and 6211 41 00, for the entry in column (4) occurring against each of them, the entry "10%" shall be substituted;

(*lxxxii*) for the entry in column (4) occurring against all the tariff items of sub-heading 6211 42, the entry "10% or Rs. 135 per piece, whichever is higher" shall be substituted;

(*lxxxiii*) in tariff item 6211 43 00, for the entry in column (4), the entry "10% or Rs. 135 per piece, whichever is higher" shall be substituted;

(*lxxxiv*) in tariff item 6211 49 00, for the entry in column (4), the entry "10%" shall be substituted;

(*lxxxv*) for the entry in column (4) occurring against all the tariff items of heading 6212, the entry "10% or Rs. 30 per piece, whichever is higher" shall be substituted;

(*lxxxvi*) for the entry in column (4) occurring against all the tariff items of heading 6213, the entry "10%" shall be substituted;

(*lxxxvii*) for the entry in column (4) occurring against all the tariff items of sub-heading 6214 10, the entry "10% or Rs. 390 per piece, whichever is higher" shall be substituted;

(*lxxxviii*) for the entry in column (4) occurring against all the tariff items of sub-heading 6214 20, the entry "10% or Rs.180 per piece, whichever is higher" shall be substituted;

(*lxxxix*) in tariff items 6214 30 00 and 6214 40 00, for the entry in column (4) occurring against each of them, the entry "10%" shall be substituted;

(*xc*) for the entry in column (4) occurring against all the tariff items of sub-heading 6214 90, the entry "10% or Rs. 75 per piece, whichever is higher" shall be substituted;

(*xci*) for the entry in column (4) occurring against all the tariff items of heading 6215, the entry "10% or Rs. 55 per piece, whichever is higher" shall be substituted;

(*xcii*) for the entry in column (4) occurring against all the tariff items of headings 6216 and 6217, the entry "10%" shall be substituted;

(*41*) in Chapter 63,—

(*i*) for the entry in column (4) occurring against all the tariff items (except tariff items 6301 20 00, 6302 21 00 and 6302 31 00), the entry "10%" shall be substituted;

(*ii*) in tariff item 6301 20 00, for the entry in column (4), the entry "10% or Rs. 275 per piece, whichever is higher" shall be substituted;

(*iii*) in tariff item 6302 21 00, for the entry in column (4), the entry "10% or Rs. 108 per kg., whichever is higher" shall be substituted;

(*iv*) in tariff item 6302 31 00, for the entry in column (4), the entry "10% or Rs. 96 per kg., whichever is higher" shall be substituted;

(*42*) in Chapter 64, for the entry in column (4) occurring against all the tariff items, the entry "10%" shall be substituted;

(*43*) in Chapter 65, for the entry in column (4) occurring against all the tariff items, the entry "10%" shall be substituted;

(*44*) in Chapter 66, for the entry in column (4) occurring against all the tariff items, the entry "10%" shall be substituted;

(*45*) in Chapter 67, for the entry in column (4) occurring against all the tariff items, the entry "10%" shall be substituted;

(*46*) in Chapter 68, for the entry in column (4) occurring against all the tariff items, the entry "10%" shall be substituted;

(*47*) in Chapter 69, for the entry in column (4) occurring against all the tariff items, the entry "10%" shall be substituted;

(*48*) in Chapter 70, for the entry in column (4) occurring against all the tariff items, the entry "10%" shall be substituted;

(*49*) in Chapter 71, for the entry in column (4) occurring against all the tariff items, the entry "10%" shall be substituted;

(*50*) in Chapter 72, for the entry in column (4) occurring against all the tariff items, the entry "10%" shall be substituted;

(*51*) in Chapter 73, for the entry in column (4) occurring against all the tariff items, the entry "10%" shall be substituted;

(*52*) in Chapter 74,—

(*i*) for the entry in column (4) occurring against all the tariff items of headings 7401, 7402, 7403 and 7404, the entry "5%" shall be substituted;

(*ii*) in tariff item 7405 00 00, for the entry in column (4), the entry "5%" shall be substituted;

(*iii*) for the entry in column (4) occurring against all the tariff items of headings 7406, 7407, 7408, 7409 and 7410, the entry "5%" shall be substituted;

(*iv*) for the entry in column (4) occurring against all the tariff items of headings 7411 and 7412, the entry "10%" shall be substituted;

(*v*) in tariff item 7413 00 00, for the entry in column (4), the entry "10%" shall be substituted;

(*vi*) for the entry in column (4) occurring against all the tariff items of headings 7415, 7418 and 7419, the entry "10%" shall be substituted;

(*53*) in Chapter 75, for the entry in column (4) occurring against all the tariff items, the entry "5%" shall be substituted;

(*54*) in Chapter 76,—

(*i*) for the entry in column (4) occurring against all the tariff items of headings 7601, 7602, 7603, 7604, 7605, 7606 and 7607, the entry "5%" shall be substituted;

(*ii*) for the entry in column (4) occurring against all the tariff items of heading 7608, the entry "10%" shall be substituted;

(*iii*) in tariff item 7609 00 00, for the entry in column (4), the entry "10%" shall be substituted;

(*iv*) for the entry in column (4) occurring against all the tariff items of heading 7610, the entry "10%" shall be substituted;

(*v*) in tariff item 7611 00 00, for the entry in column (4), the entry "10%" shall be substituted;

(*vi*) for the entry in column (4) occurring against all the tariff items of headings 7612, 7613, 7614, 7615 and 7616, the entry "10%" shall be substituted;

(*55*) in Chapter 78,—

(*i*) for the entry in column (4) occurring against all the tariff items of headings 7801, 7802 and 7804, the entry "5%" shall be substituted;

(*ii*) for the entry in column (4) occurring against all the tariff items of heading 7806, the entry "10%" shall be substituted;

(*56*) in Chapter 79,—

(*i*) for the entry in column (4) occurring against all the tariff items of headings 7901, 7902, 7903, 7904 and 7905, the entry "5%" shall be substituted;

(*ii*) for the entry in column (4) occurring against all the tariff items of heading 7907, the entry "10%" shall be substituted;

(*57*) in Chapter 80,—

(*i*) for the entry in column (4) occurring against all the tariff items of headings 8001, 8002 and 8003, the entry "5%" shall be substituted;

(*ii*) for the entry in column (4) occurring against all the tariff items of heading 8007, the entry "10%" shall be substituted;

(*58*) in Chapter 81,—

(*i*) for the entry in column (4) occurring against all the tariff items of heading 8101 (except tariff items 8101 99 10 and 8101 99 90), the entry "5%" shall be substituted;

(*ii*) in tariff items 8101 99 10 and 8101 99 90, for the entry in column (4) occurring against each of them, the entry "10%" shall be substituted;

(*iii*) for the entry in column (4) occurring against all the tariff items of heading 8102 (except tariff item 8102 99 00), the entry "5%" shall be substituted;

(*iv*) in tariff item 8102 99 00, for the entry in column (4), the entry "10%" shall be substituted;

(*v*) for the entry in column (4) occurring against all the tariff items of heading 8103 (except tariff item 8103 90 00), the entry "5%" shall be substituted;

(*vi*) in tariff item 8103 90 00, for the entry in column (4), the entry "10%" shall be substituted;

(*vii*) for the entry in column (4) occurring against all the tariff items of heading 8104 (except tariff item 8104 90 90), the entry "5%" shall be substituted;

(*viii*) in tariff item 8104 90 90, for the entry in column (4), the entry "10%" shall be substituted;

(*ix*) for the entry in column (4) occurring against all the tariff items of heading 8105 (except tariff item 8105 90 00), the entry "5%" shall be substituted;

(*x*) in tariff item 8105 90 00, for the entry in column (4), the entry "10%" shall be substituted;

(*xi*) for the entry in column (4) occurring against all the tariff items of heading 8106 (except tariff item 8106 00 90), the entry "5%" shall be substituted;

(*xii*) in tariff item 8106 00 90, for the entry in column (4), the entry "10%" shall be substituted;

(*xiii*) for the entry in column (4) occurring against all the tariff items of heading 8107 (except tariff item 8107 90 90), the entry "5%" shall be substituted;

(*xiv*) in tariff item 8107 90 90, for the entry in column (4), the entry "10%" shall be substituted;

(*xv*) for the entry in column (4) occurring against all the tariff items of heading 8108 (except tariff item 8108 90 90), the entry "5%" shall be substituted;

(*xvi*) in tariff item 8108 90 90, for the entry in column (4), the entry "10%" shall be substituted;

(*xvii*) for the entry in column (4) occurring against all the tariff items of heading 8109 (except tariff item 8109 90 00), the entry "5%" shall be substituted;

(*xviii*) in tariff item 8109 90 00, for the entry in column (4), the entry "10%" shall be substituted;

(*xix*) for the entry in column (4) occurring against all the tariff items of heading 8110 (except tariff item 8110 90 00), the entry "5%" shall be substituted;

(*xx*) in tariff item 8110 90 00, for the entry in column (4), the entry "10%" shall be substituted;

(*xxi*) for the entry in column (4) occurring against all the tariff items of heading 8111 (except tariff item 8111 00 90), the entry "5%" shall be substituted;

(*xxii*) in tariff item 8111 00 90, for the entry in column (4), the entry "10%" shall be substituted;

(*xxiii*) for the entry in column (4) occurring against all the tariff items of heading 8112 (except tariff items 8112 19 00, 8112 29 00, 8112 59 00 and 8112 99 00), the entry "5%" shall be substituted;

(*xxiv*) in tariff items 8112 19 00, 8112 29 00, 8112 59 00 and 8112 99 00, for the entry in column (4) occurring against each of them, the entry "10%" shall be substituted;

(*xxv*) for the entry in column (4) occurring against all the tariff items of heading 8113, the entry "10%" shall be substituted;

(*59*) in Chapter 82, for the entry in column (4) occurring against all the tariff items, the entry "10%" shall be substituted;

(*60*) in Chapter 83, for the entry in column (4) occurring against all the tariff items, the entry "10%" shall be substituted;

(*61*) in Chapter 84,—

(*i*) for the entry in column (4) occurring against all the tariff items (except tariff items 8407 21 00, 8413 11 10, 8413 19 10, 8413 20 00, 8413 91 40, 8414 20 10, 8414 20 20, 8414 51 10, 8414 51 20, 8414 51 30, 8414 59 20, 8414 90 12, 8414 90 30, 8415 10 10, 8415 10 90, 8415 20 10, 8415 20 90, 8415 81 10, 8415 81 90, 8415 82 10, 8415 82 90, 8415 83 10, 8415 83 90, 8415 90 00, 8418 10 90, 8418 21 00, 8418 29 00, 8418 30 90, 8418 69 20, 8418 69 30, 8419 11 10, 8419 19 10, 8419 81 10, 8419 81 20, 8419 81 90, 8419 90 10, 8421 21 20, 8422 11 00, 8422 90 20, 8423 10 00, 8423 90 10, 8433 11 90, 8433 19 90, 8443 32 10, 8443 32 20, 8443 32 30, 8443 32 40, 8443 32 50, 8443 32 60, 8443 32 90, 8443 99 10, 8443 99 20, 8443 99 30, 8443 99 40, 8443 99 51, 8443 99 52, 8443 99 59, 8450 11 00, 8450 12 00, 8450 19 00, 8450 90 10, 8451 21 00, 8451 30 10, 8452 10 11, 8452 10 12, 8452 10 19, 8452 10 21, 8452 10 22, 8452 10 29, 8452 30 10, 8452 90 10, 8456 90 10, 8469 00 10, 8469 00 20, 8469 00 90, 8470 10 00, 8470 21 00, 8470 29 00, 8470 30 00, 8470 50 10, 8470 50 20, 8470 90 10, 8470 90 20, 8471 30 10, 8471 30 90, 8471 41 10, 8471 41 20, 8471 41 90, 8471 49 00, 8471 50 00,

8471 60 10, 8471 60 24, 8471 60 25, 8471 60 29, 8471 60 40, 8471 60 50, 8471 60 60, 8471 60 90, 8471 70 10, 8471 70 20, 8471 70 30, 8471 70 40, 8471 70 50, 8471 70 60, 8471 70 70, 8471 70 90, 8471 80 00, 8471 90 00, 8472 90 10, 8473 21 00, 8473 29 00, 8473 30 10, 8473 30 20, 8473 30 30, 8473 30 40, 8473 30 91, 8473 30 92, 8473 30 99 and 8473 50 00), the entry "7.5%" shall be substituted;

(*ii*) in tariff items 8413 11 10, 8413 19 10, 8413 20 00, 8413 91 40, 8414 20 10, 8414 20 20, 8414 51 10, 8414 51 20, 8414 51 30, 8414 59 20, 8414 90 12, 8414 90 30, 8415 10 10, 8415 10 90, 8415 20 10, 8415 20 90, 8415 81 10, 8415 81 90, 8415 82 10, 8415 82 90, 8415 83 10, 8415 83 90, 8415 90 00, 8418 10 90, 8418 21 00, 8418 29 00, 8418 30 90, 8418 69 20, 8418 69 30, 8419 11 10, 8419 19 10, 8419 81 10, 8419 81 20, 8419 81 90, 8419 90 10, 8421 21 20, 8422 11 00, 8422 90 20, 8423 10 00, 8423 90 10, 8433 11 90, 8433 19 90, 8450 11 00, 8450 12 00, 8450 19 00, 8450 90 10, 8451 21 00, 8451 30 10, 8452 10 11, 8452 10 12, 8452 10 19, 8452 10 21, 8452 10 22, 8452 10 29, 8452 30 10, 8452 90 10, 8469 00 20, 8469 00 90 and 8472 90 10, for the entry in column (4) occurring against each of them, the entry "10%" shall be substituted;

(*62*) in Chapter 85,—

(*i*) for the entry in column (4) occurring against all the tariff items of heading 8501, the entry "7.5%" shall be substituted;

(*ii*) for the entry in column (4) occurring against all the tariff items of heading 8502 (except tariff items 8502 11 00 and 8502 20 10), the entry "7.5%" shall be substituted;

(*iii*) in tariff items 8502 11 00 and 8502 20 10, for the entry in column (4) occurring against each of them, the entry "10%" shall be substituted;

(*iv*) for the entry in column (4) occurring against all the tariff items of heading 8503, the entry "7.5%" shall be substituted;

(*v*) for the entry in column (4) occurring against all the tariff items of heading 8504 (except tariff items 8504 31 00, 8504 32 00, 8504 40 10 and 8504 40 30), the entry "7.5%" shall be substituted;

(*vi*) in tariff items 8504 31 00, 8504 32 00, 8504 40 10 and 8504 40 30, for the entry in column (4) occurring against each of them, the entry "10%" shall be substituted;

(*vii*) for the entry in column (4) occurring against all the tariff items of heading 8505, the entry "7.5%" shall be substituted;

(*viii*) for the entry in column (4) occurring against all the tariff items of headings 8506, 8507, 8508, 8509 and 8510, the entry "10%" shall be substituted;

(*ix*) for the entry in column (4) occurring against all the tariff items of heading 8511, the entry "7.5%" shall be substituted;

(*x*) for the entry in column (4) occurring against all the tariff items of heading 8512 (except tariff items 8512 10 00, 8512 20 10, 8512 20 20, 8512 30 10, 8512 40 00), the entry "7.5%" shall be substituted;

(*xi*) in tariff items 8512 10 00, 8512 20 10, 8512 20 20, 8512 30 10, 8512 40 00, for the entry in column (4) occurring against each of them, the entry "10%" shall be substituted;

(*xii*) for the entry in column (4) occurring against all the tariff items of heading 8513 (except tariff item 8513 10 10), the entry "7.5%" shall be substituted;

(*xiii*) in tariff item 8513 10 10, for the entry in column (4), the entry "10%" shall be substituted;

(*xiv*) for the entry in column (4) occurring against all the tariff items of headings 8514 and 8515, the entry "7.5%" shall be substituted;

(*xv*) for the entry in column (4) occurring against all the tariff items of heading 8516, the entry "10%" shall be substituted;

(*xvi*) for the entry in column (4) occurring against all the tariff items of headings 8518, 8519 (except tariff item 8519 50 00), 8521, 8522 and 8523 (except tariff items 8523 52 10, 8523 52 20, 8523 52 90, 8523 59 10 and 8523 80 20), the entry "10%" shall be substituted;

(*xvii*) for the entry in column (4) occurring against all the tariff items of heading 8525 (except tariff items 8525 50 50, 8525 60 11, 8525 60 12, 8525 60 13, 8525 60 19, 8525 60 91, 8525 60 92, 8525 60 99, 8525 80 10, 8525 80 20, 8525 80 30 and 8525 80 90), the entry "7.5%" shall be substituted;

(*xviii*) in tariff items 8525 50 50, 8525 80 10, 8525 80 20, 8525 80 30 and 8525 80 90, for the entry in column (4) occurring against each of them, the entry "10%" shall be substituted;

(*xix*) for the entry in column (4) occurring against all the tariff items of heading 8526, the entry "7.5%" shall be substituted;

(*xx*) for the entry in column (4) occurring against all the tariff items of headings 8527 and 8528, the entry "10%" shall be substituted;

(*xxi*) for the entry in column (4) occurring against all the tariff items of heading 8529 (except tariff items 8529 10 19, 8529 10 29, 8529 10 99 and 8529 90 90), the entry "7.5%" shall be substituted;

(*xxii*) in tariff items 8529 10 19, 8529 10 29, 8529 10 99 and 8529 90 90, for the entry in column (4) occurring against each of them, the entry "10%" shall be substituted;

(*xxiii*) for the entry in column (4) occurring against all the tariff items of heading 8530, the entry "7.5%" shall be substituted;

(*xxiv*) for the entry in column (4) occurring against all the tariff items of heading 8531 (except tariff item 8531 20 00), the entry "10%" shall be substituted;

(*xxv*) for the entry in column (4) occurring against all the tariff items of heading 8535, the entry "7.5%" shall be substituted;

(*xxvi*) for the entry in column (4) occurring against all the tariff items of heading 8536 (except tariff items 8536 10 10, 8536 41 00, 8536 61 10, 8536 61 90, 8536 69 10 and 8536 69 90), the entry "7.5%" shall be substituted;

(*xxvii*) in tariff items 8536 10 10, 8536 41 00, 8536 61 10, 8536 61 90, 8536 69 10 and 8536 69 90, for the entry in column (4) occurring against each of them, the entry "10%" shall be substituted;

(*xxviii*) for the entry in column (4) occurring against all the tariff items of headings 8537 and 8538, the entry "7.5%" shall be substituted;

(*xxix*) for the entry in column (4) occurring against all the tariff items of heading 8539, the entry "10%" shall be substituted;

(*xxx*) for the entry in column (4) occurring against all the tariff items of heading 8540 (except tariff item 8540 40 00), the entry "10%" shall be substituted;

(*xxxi*) in tariff item 8542 39 00, for the entry in column (4), the entry "7.5%" shall be substituted;

(*xxxii*) for the entry in column (4) occurring against all the tariff items of heading 8543 (except tariff items 8543 10 10 and 8543 70 11), the entry "7.5%" shall be substituted;

(*xxxiii*) for the entry in column (4) occurring against all the tariff items of heading 8544 (except tariff items 8544 70 10 and 8544 70 90), the entry "7.5%" shall be substituted;

(*xxxiv*) for the entry in column (4) occurring against all the tariff items of headings 8545, 8546 and 8547, the entry "7.5%" shall be substituted;

(*xxxv*) for the entry in column (4) occurring against all the tariff items of heading 8548, the entry "10%" shall be substituted;

(*63*) in Chapter 86, for the entry in column (4) occurring against all the tariff items, the entry "10%" shall be substituted;

(*64*) In Chapter 87,—

(*i*) for the entry in column (4) occurring against all the tariff items of headings 8701 and 8702, the entry "10%" shall be substituted;

(*ii*) for the entry in column (4) occurring against all the tariff items of headings 8704, 8705, 8706, 8707, 8708 and 8709, the entry "10%" shall be substituted;

(*iii*) for the entry in column (4) occurring against all the tariff items of headings 8712, 8713, 8714, 8715 and 8716, the entry "10%" shall be substituted;

(*65*) in Chapter 88, for the entry in column (4) occurring against all the tariff items (except tariff items 8802 20 00, 8802 30 00, 8802 40 00, 8803 10 00, 8803 20 00 and 8803 30 00), the entry "10%" shall be substituted;

(*66*) in Chapter 89, for the entry in column (4) occurring against all the tariff items, the entry "10%" shall be substituted;

(*67*) in Chapter 90,—

(*i*) for the entry in column (4) occurring against all the tariff items of headings 9001, 9002, 9003, 9004, 9005, 9006, 9007 and 9008, the entry "10%" shall be substituted;

(*ii*) for the entry in column (4) occurring against all the tariff items of heading 9010 (except tariff item 9010 60 00), the entry "7.5%" shall be substituted;

(*iii*) in tariff item 9010 60 00, for the entry in column (4), the entry "10%" shall be substituted;

(*iv*) for the entry in column (4) occurring against all the tariff items of headings 9011 and 9012, the entry "7.5%" shall be substituted;

(*v*) for the entry in column (4) occurring against all the tariff items of heading 9013 (except tariff items 9013 10 10, 9013 80 10 and 9013 90 10), the entry "7.5%" shall be substituted;

(*vi*) in tariff item 9013 10 10, for the entry in column (4), the entry "10%" shall be substituted;

(*vii*) for the entry in column (4) occurring against all the tariff items of headings 9014 and 9015, the entry "7.5%" shall be substituted;

(*viii*) for the entry in column (4) occurring against all the tariff items of headings 9016 and 9017, the entry "10%" shall be substituted;

(*ix*) for the entry in column (4) occurring against all the tariff items of headings 9018 and 9019, the entry "7.5%" shall be substituted;

(*x*) in tariff item 9020 00 00, for the entry in column (4), the entry "7.5%" shall be substituted;

(*xi*) for the entry in column (4) occurring against all the tariff items of headings 9021 and 9022, the entry "7.5%" shall be substituted;

(*xii*) for the entry in column (4) occurring against all the tariff items of heading 9023, the entry "10%" shall be substituted;

(*xiii*) for the entry in column (4) occurring against all the tariff items of heading 9024, the entry "7.5%" shall be substituted;

(*xiv*) for the entry in column (4) occurring against all the tariff items of heading 9025 (except tariff items 9025 11 10 and 9025 19 10), the entry "7.5%" shall be substituted;

(*xv*) in tariff items 9025 11 10 and 9025 19 10, for the entry in column (4) occurring against each of them, the entry "10%" shall be substituted;

(*xvi*) in tariff item 9027 10 00, for the entry in column (4), the entry "10%" shall be substituted;

(*xvii*) in tariff items 9027 90 10, 9027 90 20 and 9027 90 90, for the entry in column (4) occurring against each of them, the entry "7.5%" shall be substituted;

(*xviii*) for the entry in column (4) occurring against all the tariff items of heading 9028 (except all the tariff items of sub-heading 9028 30), the entry "7.5%" shall be substituted;

(*xix*) in tariff items 9028 30 10 and 9028 30 90, for the entry in column (4) occurring against each of them, the entry "10%" shall be substituted;

(*xx*) for the entry in column (4) occurring against all the tariff items of heading 9029 (except tariff item 9029 10 10), the entry "7.5%" shall be substituted;

(*xxi*) in tariff item 9029 10 10, for the entry in column (4), the entry "10%" shall be substituted;

(*xxii*) for the entry in column (4) occurring against all the tariff items of heading 9030 (except tariff items 9030 40 00 and 9030 82 00), the entry "7.5%" shall be substituted;

(*xxiii*) for the entry in column (4) occurring against all the tariff items of heading 9031 (except tariff item 9031 41 00), the entry "7.5%" shall be substituted;

(*xxiv*) for the entry in column (4) occurring against all the tariff items of heading 9032, the entry "7.5%" shall be substituted;

(*xxv*) in tariff item 9033 00 00, for the entry in column (4), the entry "7.5%" shall be substituted;

(*68*) in Chapter 91, for the entry in column (4) occurring against all the tariff items, the entry "10%" shall be substituted;

(*69*) in Chapter 92, for the entry in column (4) occurring against all the tariff items, the entry "10%" shall be substituted;

(*70*) in Chapter 93, for the entry in column (4) occurring against all the tariff items, the entry "10%" shall be substituted;

(*71*) in Chapter 94, for the entry in column (4) occurring against all the tariff items, the entry "10%" shall be substituted;

(*72*) in Chapter 95, for the entry in column (4) occurring against all the tariff items, the entry "10%" shall be substituted;

(*73*) in Chapter 96, for the entry in column (4) occurring against all the tariff items, the entry "10%" shall be substituted;

(*74*) in Chapter 97, for the entry in column (4) occurring against all the tariff items (except tariff items 9704 00 10, 9704 00 20 and 9704 00 90), the entry "10%" shall be substituted;

(*75*) in Chapter 98, for the entry in column (4) occurring against all the tariff items (except tariff item 9803 00 00), the entry "10%" shall be substituted.

THE THIRD SCHEDULE

[*See* section 114 (*ii*)]

In the Second Schedule to the Customs Tariff Act, for heading Nos. 11 and 12 and the entries relating thereto, the following heading Nos. and entries shall be substituted, namely:—

Heading No.	Description of article	Rate of duty
(1)	(2)	(3)
"11.	Iron ores and concentrates, all sorts	Rs. 300 per tonne
12.	Chromium ores and concentrates, all sorts	Rs. 2000 per tonne".

THE FOURTH SCHEDULE

[*See* section 133]

PART I

In the Third Schedule to the Central Excise Act,—

(*1*) after S.No. 29 and the entries relating thereto, the following S.No., heading and entries shall be inserted, namely:—

S. No.	Heading, sub-heading or tariff item	Description of goods
(1)	(2)	(3)
"29A.	2523 29	All goods";

(*2*) after S.No. 47 and the entries relating thereto, the following S.No., heading and entries shall be inserted, namely:—

(1)	(2)	(3)
"47A.	3808 93 40	Plant growth regulators";

(*3*) against S.No. 82, for the entry in column (2), the entry "8519" shall be substituted;

(4) against S.No. 93, for the entry in column (2), the entry "8536 (except 8536 70 00)" shall be substituted;

(*5*) after S.No. 97 and the entries relating thereto, the following S.No., tariff item and entries shall be inserted, namely:—

(1)	(2)	(3)
"97A.	9603 21 00	Toothbrush";

(*6*) S. No. 101 and the entries relating thereto shall be omitted;

(*7*) S. No. 102 and the entries relating thereto shall be omitted.

PART II

In the Third Schedule to the Central Excise Act,—

(*1*) after S.No. 71 and the entries relating thereto, the following S.No., sub-heading or tariff item and entries shall be inserted, namely:—

(1)	(2)	(3)
"71A.	8443 31 00 or 8443 32	Printer, whether or not combined with the functions of copying or facsimile transmission
71B.	8443 32 60 or 8443 39 70	Facsimile machines
71C.	8443 99 51	Ink cartridges, with print head assembly";

(*2*) after S.No. 74 and the entries relating thereto, the following S.No., sub-heading and entries shall be inserted, namely:—

(1)	(2)	(3)
"74A.	8471 30	All goods
74B.	8471 60	All goods";

(3) after S.No. 81 and the entries relating thereto, the following S.No., tariff item and entries shall be inserted, namely:—

(1)	(2)	(3)
"81A.	8517 62 30	Modems (modulators-demodulators)
81B.	8517 69 60	Set top boxes for gaining access to internet";

(4) after S.No. 92 and the entries relating thereto, the following S.No., heading or tariff item and entries shall be inserted, namely:—

(1)	(2)	(3)
"92A.	8528	Monitors of a kind solely or principally used in an automatic data processing machine
92B.	8528 71 00	Set top boxes for television sets".

THE FIFTH SCHEDULE

(*See* section 134)

In the First Schedule to the Central Excise Tariff Act, 1985,—

(*1*) in Chapter 24,—

(*i*) in tariff item 2402 20 10, for the entry in column (4), the entry "Rs. 133 per thousand" shall be substituted;

(*ii*) in tariff item 2402 20 20, for the entry in column (4), the entry "Rs. 441 per thousand" shall be substituted;

(*iii*) in tariff item 2402 20 30, for the entry in column (4), the entry "Rs. 659 per thousand" shall be substituted;

(*iv*) in tariff item 2402 20 40, for the entry in column (4), the entry "Rs. 1,068 per thousand" shall be substituted;

(*v*) in tariff item 2402 20 50, for the entry in column (4), the entry "Rs. 1,424 per thousand" shall be substituted;

(*vi*) in tariff item 2402 20 90, for the entry in column (4), the entry "Rs. 1,748 per thousand" shall be substituted;

(*vii*) in tariff item 2402 90 10, for the entry in column (4), the entry "Rs. 1,058 per thousand" shall be substituted;

(*2*) in Chapter 25, for the entry in column (4) against all the tariff items of sub-heading 2523 29, the entry "Rs. 600 per tonne" shall be substituted;

(*3*) in Chapter 54,—

(*i*) in tariff items 5407 10 15, 5407 10 25, 5407 10 35, 5407 10 45 and 5407 10 95, for the entry in column (4) occurring against each of them, the entry "12%" shall be substituted;

(*ii*) for the entry in column (4) against all the tariff items of sub-headings 5407 20 and 5407 30, the entry "12%" shall be substituted;

(*iii*) in tariff items 5407 41 19, 5407 41 29, 5407 42 90, 5407 43 00, 5407 44 90, 5407 71 10, 5407 71 20, 5407 72 00, 5407 73 00, 5407 74 00, 5407 81 19, 5407 81 29, 5407 82 90, 5407 83 00, 5407 84 90, 5407 91 10, 5407 91 20, 5407 92 00, 5407 93 00 and 5407 94 00, for the entry in column (4) occurring against each of them, the entry "12%" shall be substituted;

(4) in Chapter 56, in tariff items 5607 50 10, 5608 11 10 and 5608 11 90, for the entry in column (4) occurring against each of them, the entry "12%" shall be substituted;

(*5*) in Chapter 85, for the entry in column (4) occurring against all the tariff items of heading 8528, the entry "16%" shall be substituted;

(*6*) in Chapter 88,—

(*i*) in tariff items 8802 11 00, 8802 12 00, 8802 20 00, 8802 30 00 and 8802 40 00, for the entry in column (4) occurring against each of them, the entry "16%" shall be substituted;

(*ii*) in tariff items 8803 10 00, 8803 20 00, 8803 30 00 and 8803 90 00, for the entry in column (4) occurring against each of them, the entry "16%" shall be substituted.

THE SIXTH SCHEDULE

(*See* section 143)

In the First Schedule to the Additional Duties of Excise (Goods of Special Importance) Act,—

(*1*) in heading 5211, in tariff item 5211 20 50, in the entry in column (2), for the words "crepe fabrics including", the words "crepe fabrics including crepe checks" shall be substituted;

(*2*) in heading 5514, in tariff item 5514 30 12, in the entry in column (2), for the words "polyester, staple fibres", the words "polyester staple fibres" shall be substituted.

Sd/-

Dr. K. N. CHATURVEDI,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

H. D. VYAS,
Secretary to Government.

Government Central Press, Gandhinagar.

Extra No. 29 REGISTERED No. G/GNR/2

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The Gujarat Government Gazette

EXTRAORDINARY

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Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART VI

Acts of Parliament and Ordinances Promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 17th November, 2007.

No. : RPB/50-2007/Act-23-07/E :- The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

(LEGISLATIVE DEPARTMENT)

New Delhi, the 12th May, 2007, Vaisakha, 22,1929 (Saka)

The Following Act of Parliament has received the assent of the President on the 11th May, 2007, is hereby published for general information :-

THE NATIONAL RURAL EMPLOYMENT GUARANTEE (EXTENSION TO JAMMU AND KASHMIR) ACT, 2007

An Act

(Act No. 23 of 2007) [11th May, 2007]

to provide for the extension of the National Rural Employment Guarantee Act, 2005 *to the State of Jammu and Kashmir.*

BE it enacted by Parliament in the Fifty-eighth Year of the Republic of India as follows:—

Short title and commencement.

1. *(1)* This Act may be called the National Rural Employment Guarantee (Extension to Jammu and Kashmir) Act, 2007.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for different areas in the State and any reference to the commencement of this Act shall be construed as a reference to the coming into force of that Act in such areas.

Extension and amendment of the National Rural Employment Guarantee Act, 2005.

42 of 2005.

2. *(1)* The National Rural Employment Guarantee Act, 2005 (hereinafter referred to as the principal Act) and all rules, orders and schemes made thereunder by the Central Government are hereby extended to, and shall be in force in, the State of Jammu and Kashmir.

(2) With effect from the date of commencement of this Act, in the principal Act, in sub-section *(2)* of section 1, the words "except the State of Jammu and Kashmir" shall be omitted.

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Construction of reference to a law not in force in Jammu and Kashmir.

3. Any reference in any Act mentioned in the principal Act to a law which is not in force in the State of Jammu and Kashmir shall, in relation to that State, be construed as a reference to the corresponding law, if any, in force in that State.

Sd/-
Dr. K. N. Chaturvedi
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

H. D. VYAS
Secretary to Government.

Government Central Press, Gandhinagar.

Extra No. 30 REGISTERED No. G/GNR/2

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PART VI

Acts of Parliament and Ordinances Promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 17th Naovember, 2007.

No. : RPB/52-2007/Act-25-07/E :- The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

(LEGISLATIVE DEPARTMENT)

New Delhi, the 29th May, 2007, Jyaistha, 8, 1929 (Saka)

The Following Act of Parliament has received the assent of the President on the 28th May, 2007, is hereby published for general information :-

THE CABLE TELEVISION NET WORKS (REGULATION) AMENDMENT ACT, 2007

An Act

(Act No. 25 of 2007) [28th May, 2007]

further to amend the Cable Television Networks (Regulation) Act, 1995.

BE it enacted by Parliament in the Fifty-eighth Year of the Republic of India as follows:—

1. This Act may be called the Cable Television Networks (Regulation) Amendment Act, 2007. Short title.

2. In the Cable Television Networks (Regulation) Act, 1995, in section 8, for sub-sections *(1)* and *(2)*, the following sub-sections shall be substituted, namely:— Amendment of section 8 of Act 7 of 1995.

"*(1)* Every cable operator shall re-transmit,—

(i) channels operated by or on behalf of Parliament in the manner and name as may be specified by the Central Government by notification in the Official Gazette;

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(*ii*) at least two Doordarshan terrestrial channels and one regional language channel of a State in the prime band,

in satellite mode on frequencies other than those carrying terrestrial frequencies.

(2) The channels referred to in sub-section *(1)* shall be re-transmitted without any deletion or alteration of any programme transmitted on such channels.".

Sd/-
Dr. K. N. CHATURVEDI,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

H. D. VYAS,
Secretary to Government.

Government Central Press, Gandhinagar.

Extra No.31 REGISTERED No. G/GNR/2

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PART - VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE & PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 17th November, 2007

No. RPB-53-2007/Act-26--07/E :- The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

(LEGISLATIVE DEPARTMENT)

New Delhi, the 29th May, 2007. Jyaistha 8, 1929 (Saka)

The following Act of Parliament has received the assent of the President on the 28th May, 2007. is hereby published for general information :-

THE ELECTRICITY (AMENDMENT) ACT, 2007

An Act

(Act No. 26 of 2007) [28th May, 2007]

further to amend the Electricity Act, 2003.

BE it enacted by Parliament in the Fifty-eighth Year of the Republic of India as follows:—

1. (*1*) This Act may be called the Electricity (Amendment) Act, 2007. Short title and commencement.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

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Substitution of new section for section 6.

2. For section 6 of the Electricity Act, 2003 (hereinafter referred to as the principal Act), the following section shall be substituted, namely:— 36 of 2003.

Joint responsibility of State Government and Central Government in rural electrification.

"6. The concerned State Government and the Central Government shall jointly endeavour to provide access to electricity to all areas including villages and hamlets through rural electricity infrastructure and electrification of households.".

Amendment of section 9.

3. In section 9 of the principal Act, in sub-section (*1*), after the proviso, the following proviso shall be inserted, namely:—

"Provided further that no licence shall be required under this Act for supply of electricity generated from a captive generating plant to any licensee in accordance with the provisions of this Act and the rules and regulations made thereunder and to any consumer subject to the regulations made under sub-section (*2*) of section 42.".

Amendment of section 38.

4. In section 38 of the principal Act, in sub-section (*2*), in clause (*d*),—

(*i*) in the second proviso, the words "and eliminated" shall be omitted;

(*ii*) the third proviso shall be omitted.

Amendment of section 39.

5. In section 39 of the principal Act, in sub-section (*2*), in clause (*d*),—

(*i*) in the second proviso, the words "and eliminated" shall be omitted;

(*ii*) the third proviso shall be omitted.

Amendment of section 40.

6. In section 40 of the principal Act,—

(*i*) in the second proviso, the words "and eliminated" shall be omitted;

(*ii*) the third proviso shall be omitted.

Amendment of section 42.

7. In section 42 of the principal Act, in sub-section (*2*),—

(*i*) in the first proviso, for the words "such open access may be allowed before the cross-subsidies are eliminated on payment of a surcharge", the words "such open access shall be allowed on payment of a surcharge" shall be substituted;

(*ii*) in the third proviso, the words "and eliminated" shall be omitted.

Amendment of section 43.

8. In section 43 of the principal Act, in sub-section (*1*),—

(*i*) for the words "Every distribution", the words "Save as otherwise provided in this Act, every distribution" shall be substituted;

(*ii*) after the second proviso, the following *Explanation* shall be inserted, namely:—

'*Explanation*.—For the purposes of this sub-section, "application" means the application complete in all respects in the appropriate form, as required by the distribution licensee, along with documents showing payment of necessary charges and other compliances.'.

Substitution of new section for section 50.

9. For section 50 of the principal Act, the following section shall be substituted, namely:—

The electricity supply code.

"50. The State Commission shall specify an electricity supply code to provide for recovery of electricity charges, intervals for billing of electricity charges, disconnection of supply of electricity for non-payment thereof, restoration of supply of electricity, measures for preventing tampering, distress or damage to electrical plant or electrical line or meter, entry of distribution licensee or any person acting on his behalf for diconnecting supply and removing the meter, entry for replacing, altering or maintaining electric lines or electrical plants or meter and such other matters.".

10. In section 61 of the principal Act, for clause (*g*), the following clause shall be substituted, namely:— Amendment of section 61.

'(*g*) that the tariff progressively reflects the cost of supply of electricity and also reduces cross-subsidies in the manner specified by the Appropriate Commission;".

11. In section 126 of the principal Act,— Amendment of section 126.

(*i*) for sub-section (*3*), the following sub-section shall be substituted, namely:—

"(*3*) The person, on whom an order has been served under sub-section (*2*), shall be entitled to file objections, if any, against the provisional assessment before the assessing officer, who shall, after affording a reasonable opportunity of hearing to such person, pass a final order of assessment within thirty days from the date of service of such order of provisional assessment, of the electricity charges payable by such person.";

(*ii*) in sub-section (*4*), the proviso shall be omitted;

(*iii*) for sub-section (*5*), the following sub-section shall be substituted, namely:—

"(*5*) If the assessing officer reaches to the conclusion that unauthorised use of electricity has taken place, the assessment shall be made for the entire period during which such unauthorised use of electricity has taken place and if, however, the period during which such unauthorised use of electricity has taken place cannot be ascertained, such period shall be limited to a period of twelve months immediately preceding the date of inspection.";

(*iv*) in sub-section (*6*), for the words "one-and-half times", the word "twice" shall be substituted;

(*v*) in the *Explanation* occurring at the end, in clause (*b*), for sub-clause (*iv*), the following sub-clauses shall be substituted, namely:—

"(*iv*) for the purpose other than for which the usage of electricity was authorised; or

(*v*) for the premises or areas other than those for which the supply of electricity was authorised.".

12. In section 127 of the principal Act, in sub-section (*2*), for the words "one-third of the assessed amount", the words "half of the assessed amount" shall be substituted. Amendment of section 127.

13. In section 135 of the principal Act,— Amendment of section 135.

(*A*) for sub-section (*1*), the following sub-sections shall be substituted, namely:—

"(*1*) Whoever, dishonestly,—

(*a*) taps, makes or causes to be made any connection with overhead, underground or under water lines or cables, or service wires, or service facilities of a licensee or supplier, as the case may be; or

(*b*) tampers a meter, installs or uses a tampered meter, current reversing transformer, loop connection or any other device or method which interferes with accurate or proper registration, calibration or metering of electric current or otherwise results in a manner whereby electricity is stolen or wasted; or

(*c*) damages or destroys an electric meter, apparatus, equipment, or wire or causes or allows any of them to be so damaged or destroyed as to interfere with the proper or accurate metering of electricity; or

(*d*) uses electricity through a tampered meter; or

(*e*) uses electricity for the purpose other than for which the usage of electricity was authorised,

so as to abstract or consume or use electricity shall be punishable with imprisonment for a term which may extend to three years or with fine or with both:

Provided that in a case where the load abstracted, consumed, or used or attempted abstraction or attempted consumption or attempted use—

(*i*) does not exceed 10 kilowatt, the fine imposed on first conviction shall not be less than three times the financial gain on account of such theft of electricity and in the event of second or subsequent conviction the fine imposed shall not be less than six times the financial gain on account of such theft of electricity;

(*ii*) exceeds 10 kilowatt, the fine imposed on first conviction shall not be less than three times the financial gain on account of such theft of electricity and in the event of second or subsequent conviction, the sentence shall be imprisonment for a term not less than six months, but which may extend to five years and with fine not less than six times the financial gain on account of such theft of electricity:

Provided further that in the event of second and subsequent conviction of a person where the load abstracted, consumed, or used or attempted abstraction or attempted consumption or attempted use exceeds 10 kilowatt, such person shall also be debarred from getting any supply of electricity for a period which shall not be less than three months but may extend to two years and shall also be debarred from getting supply of electricity for that period from any other source or generating station:

Provided also that if it is proved that any artificial means or means not authorised by the Board or licensee or supplier, as the case may be, exist for the abstraction, consumption or use of electricity by the consumer, it shall be presumed, until the contrary is proved, that any abstraction, consumption or use of electricity has been dishonestly caused by such consumer.

(*1A*) Without prejudice to the provisions of this Act, the licensee or supplier, as the case may be, may, upon detection of such theft of electricity, immediately disconnect the supply of electricity:

Provided that only such officer of the licensee or supplier, as authorised for the purpose by the Appropriate Commission or any other officer of the licensee or supplier, as the case may be, of the rank higher than the rank so authorised shall disconnect the supply line of electricity:

Provided further that such officer of the licensee or supplier, as the case may be, shall lodge a complaint in writing relating to the commission of such offence in police station having jurisdiction within twenty-four hours from the time of such disconnection:

Provided also that the licensee or supplier, as the case may be, on deposit or payment of the assessed amount or electricity charges in accordance with the provisions of this Act, shall, without prejudice to the obligation to lodge the complaint as referred to in the second proviso to this clause, restore the supply line of electricity within forty-eight hours of such deposit or payment.";

(*B*) in sub-section (*2*), for the words "Any officer authorised", the words "Any officer of the licensee or supplier as the case may be, authorised" shall be substituted.

Amendment of section 150.

14. In section 150 of the principal Act, after sub-section (*2*), the following shall be inserted, namely:—

'(*3*) Notwithstanding anything contained in sub-section (*1*) of section 135, sub-section (*1*) of section 136, section 137 and section 138, the licence or certificate of competency or permit or such other authorisation issued under the rules made or deemed to have been made under this Act to any person who acting as an electrical

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contractor, supervisor or worker abets the commission of an offence punishable under sub-section (*1*) of section 135, sub-section (*1*) of section 136, section 137, or section 138, on his conviction for such abetment, may also be cancelled by the licensing authority:

Provided that no order of such cancellation shall be made without giving such person an opportunity of being heard.

Explanation.— For the purposes of this sub-section, "licensing authority" means the officer who for the time being in force is issuing or renewing such licence or certificate of competency or permit or such other authorisation.'.

15. In section 151 of the principal Act, the following provisos shall be inseted, namely:— Amendment of section 151.

"Provided that the court may also take cognizance of an offence punishable under this Act upon a report of a police officer filed under section 173 of the Code of Criminal Procedure, 1973: 2 of 1974.

Provided further that a special court constituted under section 153 shall be competent to take cognizance of an offence without the accused being committed to it for trial.".

16. After section 151 of the principal Act, the following sections shall be inserted, namely:— Insertion of new sections 151A and 151B.

"151A. For the purposes of investigation of an offence punishable under this Act, the police officer shall have all the powers as provided in Chapter XII of the Code of Criminal Procedure, 1973. 2 of 1974. Power of police to investigate.

151B. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, an offence punishable under sections 135 to 140 or section 150 shall be cognizable and non-bailable.". 2 of 1974. Certain offences to be cognizable and non-bailable.

17. In section 153 of the principal Act, in sub-section (*1*), for the words and figures "sections 135 to 139", the words and figures "sections 135 to 140 and section 150" shall be substituted. Amendment of section 153.

18. In section 154 of the principal Act,— Amendment of section 154.

(i) for the words and figures "sections 135 to 139" wherever they occur, the words and figures "sections 135 to 140 and section 150" shall be substituted;

(ii) in sub-section (*5*), for the words "Special Court may", the words "Special Court shall" shall be substitued.

19. In section 176 of the principal Act, in clause (*2*), in clause (*b*), for the brackets and words "(including the capital adequacy, credit worthiness or code of conduct)", the words "relating to the capital adequacy, credit worthiness or code of conduct" shall be substituted. Amendment of section 176.

20. In section 178 of the principal Act, in sub-section (*2*),— Amendment of section 178.

(*i*) in clause *(k)*, the words "and elimination" shall be omitted;

(ii) in clause *(m)*, the words "and elimination" shall be omitted;

(iii) for clause *(r)*, the following clause shall be substituted, namely:—

"*(r)* the manner for reduction of cross-subsidies under clause *(g)* of section 61;".

21. In section 181 of the principal Act, in sub-section *(2)*,— Amendment of section 181.

(i) in clause *(j)*, the words "and elimination" shall be omitted;

(ii) in clause *(m)*, the words "and elimination" shall be omitted;

(iii) in clause *(p)*, the words "and elimination" shall be omitted;

(iv) for clause *(zc)*, the following clause shall be substituted, namely:—

"*(zc)* the manner of reduction of cross-subsidies under clause *(g)* of section 61;".

Sd/-

Dr. K. N. CHATURVEDI,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

H. D. VYAS,
Secretary to Government.

Government Central Press, Gandhinagar.

Extra No.32 REGISTERED No. G/GNR/2

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PART - VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE & PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 17th November, 2007.

No. RPB-54-2007/Act-27--07/E :- The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

(LEGISLATIVE DEPARTMENT)

New Delhi, the 29th May, 2007. Jyaistha 8, 1929 (Saka)

The following Act of Parliament has received the assent of the President on the 28th May, 2007. is hereby published for general information :-

THE SECURITIES CONTRACTS (REGULATION) AMENDMENT ACT, 2007.

An Act

(Act No. 27 of 2007) [28th May, 2007]

further to amend the Securities Contracts (Regulation) Act, 1956.

BE it enacted by Parliament in the Fifty-eighth Year of the Republic of India as follows:—

1. This Act may be called the Securities Contracts (Regulation) Amendment Act, 2007. Short title.

42 of 1956. **2.** In section 2 of the Securities Contracts (Regulation) Act, 1956 (hereinafter referred to as the principal Act), in clause *(h)*, after sub-clause *(id)*, the following sub-clause shall be inserted, namely:— Amendment of section 2.

"*(ie)* any certificate or instrument (by whatever name called), issued to an investor by any issuer being a special purpose distinct entity which possesses any debt or receivable, including mortgage debt, assigned to such entity, and acknowledging beneficial interest of such investor in such debt or receivable including mortgage debt, as the case may be;".

3. After section 17 of the principal Act, the following section shall be inserted, namely:— Insertion of new section 17A.

"17A. (*1*) Without prejudice to the provisions contained in this Act or any other law for the time being in force, no securities of the nature referred to in sub-clause (*ie*) of clause *(h)* of section 2 shall be offered to the public or listed on any recognised stock exchange unless the issuer fulfils such eligibility criteria and complies with such other requirements as may be specified by regulations made by the Securities and Exchange Board of India. Public issue and listing of securities referred to in sub-clause (*ie*) of clause (*h*) of section 2.

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(2) Every issuer referred to in sub-clause *(ie)* of clause (*h*) of section 2 intending to offer the certificates or instruments referred therein to the public shall make an application, before issuing the offer document to the public, to one or more recognised stock exchanges for permission for such certificates or instruments to be listed on the stock exchange or each such stock exchange.

(3) Where the permission applied for under sub-section (2) for listing has not been granted or refused by the recognised stock exchanges or any of them, the issuer shall forthwith repay all moneys, if any, received from applicants in pursuance of the offer document, and if any such money is not repaid within eight days after the issuer becomes liable to repay it, the issuer and every director or trustee thereof, as the case may be, who is in default shall, on and from the expiry of the eighth day, be jointly and severally liable to repay that money with interest at the rate of fifteen per cent. per annum.

Explanation.—In reckoning the eighth day after another day, any intervening day which is a public holiday under the Negotiable Instruments Act, 1881, shall be disregarded, and if the eighth day (as so reckoned) is itself such a public holiday, there shall for the said purposes be substituted the first day thereafter which is not a holiday. 26 of 1881.

(4) All the provisions of this Act relating to listing of securities of a public company on a recognised stock exchange shall, *mutatis mutandis,* apply to the listing of the securities of the nature referred to in sub-clause *(ie)* of clause *(h)* of section 2 by the issuer, being a special purpose distinct entity.

Amendment of section 23.

4. In section 23 of the principal Act, in sub-section (*1*), in clause (*c*), for the word and figures "section 17", the words, figures and letter "section 17 or section 17A" shall be substituted.

Amendment of section 31.

5. In section 31 of the principal Act, for sub-section *(2)*, the following sub-section shall be substituted, namely:—

"(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely: —

(*a*) the manner, in which at least fifty-one per cent. of equity share capital of a recognised stock exchange is held within twelve months from the date of publication of the order under sub-section (7) of section 4B by the public other than the shareholders having trading rights under sub-section (8) of that section;

(*b*) the eligibility criteria and other requirements under section 17A.".

Sd/-

Dr. K. N. CHATURVEDI,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

H. D. VYAS,
Secretary to Government.

Government Central Press, Gandhinagar.

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PART VI

Acts of Parliament and Ordinances Promoulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 17th November, 2007.

No. : RPB/55-2007/Act-28-07/E :- The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

(LEGISLATIVE DEPARTMENT)

New Delhi, the 4th June, 2007, Jyaistha 14, 1929 (Saka)

The following Act of Parliament has received the assent of the President on the 1st June, 2007, is hereby published for general information :-

THE CENTRAL ROAD FUND (AMENDMENT) ACT, 2007

An Act

(Act No. 28 of 2007) [1st June, 2007]

further to amend the Central Road Fund Act, 2000.

BE it enacted by Parliament in the Fifty-eighth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Central Road Fund (Amendment) Act, 2007.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of section 9.

54 of 2000.

2. In the Central Road Fund Act, 2000 (hereinafter referred to as the principal Act), in section 9, in sub-section (*1*), for clause (*b*), the following clause shall be substituted, namely:—

"(*b*) take such measures as may be necessary to raise funds for the development and maintenance of the national highways and for the development of rural roads;".

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Amendment of section 11.

3. In section 11 of the principal Act, after sub-section (*1*), the following proviso shall be inserted, namely:—

"Provided that the Central Government may use the share of the Fund under sub-clause (*a*) of clause (*viii*) of section 10 for the repayment of any loan taken for the purpose of development of rural roads in any State or Union territory.".

Sd/-
Dr. K. N. CHATURVEDI,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

H. D. VYAS
Secretary to Government.

Government Central Press, Gandhinagar.

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PART VI

Acts of Parliament and Ordinances promulgated by the President

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 17th November, 2007.

No. RPB/56-2007/Act-29-07/E :— The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 6th June, 2007, Jyaistha 16, 1929 (Saka)

The following Act of Parliament has received the assent of the President on the 5th June, 2007, is hereby published for general information :-

THE NATIONAL INSTITUTES OF TECHNOLOGY ACT, 2007

AN ACT

(Act No. 29 of 2007) (5th June, 2007)

to declare certain institutions of technology to be Institutions of national importance and to provide for instructions and research in branches of engineering, technology, management, education, sciences and arts and for the advancement of learning and dissemination of knowledge in such branches and for certain other matters connected with such institutions.

BE it enacted by Parliament in the Fifty-eighth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (*1*) This Act may be called the National Institutes of Technology Act, 2007. Short title and commencement.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act.

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Declaration of certain Institutions as Institutions of national importance.

2. Whereas the objects of the institutions mentioned in the Schedule are such as to make them Institutions of national importance, it is hereby declared that each such institute is an Institution of national importance.

Definitions.

3. In this Act, unless the context otherwise requires,—

(*a*) "Board", in relation to any Institute, means the Board of Governors thereof;

(*b*) "Chairperson" means the Chairperson of the Board;

(*c*) "Corresponding Institute", in relation to a society mentioned in column (2) of the Schedule, means the Institute as specified in column (3) of the Schedule;

(*d*) "Council" means the Council established under sub-section (*1*) of section 30;

(*e*) "Deputy Director", in relation to any Institute, means the Deputy Director thereof;

(*f*) "Director", in relation to any Institute, means the Director thereof;

(*g*) "Institute" means any of the Institutions mentioned in column (*3*) of the Schedule;

(*h*) "notification" means a notification published in the Official Gazette;

(*i*) "prescribed" means prescribed by rules made under this Act;

(*j*) "Registrar", in relation to any Institute, means the Registrar thereof;

(*k*) "Schedule" means the Schedule annexed to the Act;

(*l*) "Senate", in relation to any Institute, means the Senate thereof;

(*m*) "Society" means any of the societies registered under the Societies Registration Act, 1860 and mentioned in column (2) of the Schedule;

21 of 1860.

(*n*) "Statutes" and "Ordinances", in relation to any Institute, means the Statutes and Ordinances of that Institute made under this Act.

CHAPTER II

THE INSTITUTES

Incorporation of Institutes.

4. (*1*) Each of the Institutes mentioned in column (*3*) of the Schedule shall be a body corporate having perpetual succession and a common seal and shall, by its name, sue and be sued.

(*2*) The body corporate constituting each of the said Institutes shall consist of a Chairperson, a Director and other members of the Board for the time being of the Institute.

Effect of incorporation of Institutes.

5. On and from the commencement of this Act,—

(*a*) any reference to a society in any law, other than this Act, or in any contract or other instrument shall be deemed as a reference to the corresponding Institute;

(*b*) all property, movable and immovable, of or belonging to a society shall vest in the corresponding Institute;

(*c*) all the rights and liabilities of a society shall be transferred to, and be the rights and liabilities of the corresponding Institute; and

(*d*) every person employed by a society, immediately before such commencement shall hold his office or service in the corresponding Institute for the same tenure, at the same remuneration and upon the same terms and conditions and with the same rights and privileges as to pension, leave, gratuity, provident fund and other matters as he would have held if this Act had not been passed, and shall continue to do so unless and until his employment is terminated or until such tenure, remuneration and terms and conditions are duly altered by the Statutes:

Provided that if the alteration so made is not acceptable to such employee, his employment may be terminated by the Institute in accordance with the terms of contract with the employee or, if no provision is made therein in this behalf, on payment to him by the Institute, of compensation equivalent to three months' remuneration in the case of permanent employee and one month's remuneration in the case of other employee.

Powers of Institutes.

6. (*1*) Subject to the provisions of this Act, every Institute shall exercise the following powers and perform the following duties, namely:—

(*a*) to provide for instruction and research in such branches of engineering and technology, management, education, sciences and arts, as the Institute may think fit, and for the advancement of learning and dissemination of knowledge in such branches;

(*b*) to hold examinations and grant degrees, diplomas and other academic distinctions or titles;

(*c*) to confer honorary degrees or other distinctions;

(*d*) to fix, demand and receive fees and other charges;

(*e*) to establish, maintain and manage halls and hostels for the residence of students;

(*f*) to supervise and control the residence and regulate the discipline of students of the Institute and to make arrangements for promoting their health, general welfare and cultural and corporate life;

(*g*) to provide for the maintenance of units of the National Cadet Corps for the students of the Institute;

(*h*) to institute academic and other posts with the prior approval of the Central Government, and to make appointments thereto excluding the Director and the Deputy Director;

(*i*) to frame Statutes and Ordinances and to alter, modify or rescind the same;

(*j*) to deal with any property belonging to or vested in the Institute in such manner as the Institute may deem fit for advancing the objects of the Institute;

(*k*) to receive gifts, grants, donations or benefactions from the Government and to receive bequests, donations and transfers of movable or immovable properties from testators, donors or transferors, as the case may be;

(*l*) to co-operate with educational or other institutions in any part of the world having objects wholly or partly similar to those of the Institute by exchange of teachers and scholars and generally in such manner as may be conducive to their common objects;

(*m*) to institute and award fellowships, scholarships, exhibitions, prizes and medals;

(*n*) to undertake consultancy in the areas or disciplines relating to the Institute; and

(*o*) to do all such things as may be necessary, incidental or conducive to the attainment of all or any of the objects of the Institute.

(*2*) Notwithstanding anything contained in sub-section (*1*), an Institute shall not dispose of in any manner any immovable property without the prior approval of the Central Government.

Institutes to be open to all races, creeds and classes.

7. (*1*) Every Institute shall be open to persons of either sex and of whatever race, creed, caste or class, and no test or condition shall be imposed as to religious belief or profession in admitting or appointing members, students, teachers or workers or in any other connection whatsoever.

(*2*) No bequest, donation or transfer of any property shall be accepted by any Institute, which in the opinion of the Council involves conditions or obligations opposed to the spirit and object of this section.

Teaching at Institutes.

8. All teaching at each of the Institutes shall be conducted by or in the name of the Institute in accordance with the Statutes and Ordinances made in this behalf.

Visitor.

9. (*1*) The President of India shall be the Visitor of every Institute.

(*2*) The Visitor may appoint one or more persons to review the work and progress of any Institute and to hold inquiries into the affairs thereof and to report thereon in such manner as the Visitor may direct.

(*3*) Upon receipt of any such report, the Visitor may take such action and issue such directions as he considers necessary in respect of any of the matters dealt with in the report and the Institute shall be bound to comply with such directions within reasonable time.

Authorities of Institutes.

10. The following shall be the authorities of an Institute, namely:—

(*a*) a Board of Governors;

(*b*) a Senate; and

(*c*) such other authorities as may be declared by the Statutes to be the authorities of the Institute.

Board of Governors.

11. The Board of every Institute shall consist of the following members, namely:—

(*a*) the Chairperson to be nominated by the Visitor;

(*b*) the Director, *ex officio*;

(*c*) two persons not below the rank of the Joint Secretary to the Government of India to be nominated by the Central Government from amongst persons dealing with technical education and finance;

(*d*) two persons to be nominated by the Government of the State in which the Institute is situated, from amongst persons, who, in the opinion of that Government, are technologists or industrialists of repute;

(*e*) two persons, at least one of whom shall be a woman, having special knowledge or practical experience in respect of education, engineering or science to be nominated by the Council; and

(*f*) one professor and one assistant professor or a lecturer of the Institute to be nominated by the Senate.

Term of office of, vacancies among, and allowances payable to, members of Board.

12. Save as otherwise provided in this section,—

(*a*) the term of office of the Chairperson or other members of the Board shall be three years from the date of his nomination;

(*b*) the term of office of an *ex officio* member shall continue so long as he holds the office by virtue of which he is a member;

(*c*) the term of office of a member nominated under clause (*f*) of section 11 shall be two years from the date of his nomination;

(*d*) a casual vacancy shall be filled up in accordance with the provisions of section 11;

(*e*) the term of office of a member nominated to fill a casual vacancy shall continue for the remainder of the term of the member in whose place he has been nominated;

(*f*) the member of the Board shall be entitled to such allowances, if any, from the Institute as may be provided for in the Statutes but no member other than the members referred to in clauses (*b*) and (*f*) of section 11 shall be entitled to any salary by reason of this clause.

13. (*1*) Subject to the provisions of this Act, the Board of every Institute shall be responsible for the general superintendence, direction and control of the affairs of the Institute and shall exercise all the powers of the Institute not otherwise provided for by this Act, the Statutes and the Ordinances, and shall have the power to review the acts of the Senate. Powers and functions of Board.

(*2*) Without prejudice to the provisions of sub-section (*1*), the Board of every Institute shall,—

(*a*) take decisions on questions of policy relating to the administration and working of the Institute;

(*b*) institute courses of study at the Institute;

(*c*) make Statutes;

(*d*) institute and appoint persons to academic as well as other posts in the Institute;

(*e*) consider and modify or cancel Ordinances;

(*f*) consider and pass resolutions on the annual report, the annual accounts and the budget estimates of the Institute for the next financial year as it thinks fit and submit them to the Council together with a statement of its development plans;

(*g*) exercise such other powers and perform such other duties as may be conferred or imposed upon it by this Act or the Statutes;

(*3*) The Board shall have the power to appoint such committees, as it considers necessary for the exercise of its powers and the performance of its duties under this Act.

14. The Senate of every Institute shall consist of the following persons, namely:— Senate.

(*a*) the Director, *ex officio*, who shall be the Chairman of the Senate;

(*b*) the Deputy Director, *ex officio;*

(*c*) the Professors appointed or recognised as such by the Institute for the purpose of imparting instructions in the Institute;

(*d*) three persons, one of whom shall be a woman, not being employees of the Institute, to be nominated by the Chairperson in consultation with the Director, from amongst educationists of repute, one each from the field of science, engineering and humanities; and

(*e*) such other members of the staff as may be laid down in the Statutes.

15. Subject to the provisions of this Act, the Statutes and the Ordinances, the Senate of an Institute shall have the control and general regulation, and be responsible for the maintenance of standards of instruction, education and examination in the Institute and shall exercise such other powers and perform such other duties as may be conferred or imposed upon it by the Statutes. Functions of Senate.

16. (*1*) The Chairperson shall ordinarily preside at the meetings of the Board and at the Convocations of the Institute. Chairperson of Board.

(*2*) It shall be the duty of the Chairperson to ensure that the decisions taken by the Board are implemented.

(*3*) The Chairperson shall exercise such other powers and perform such other duties as may be assigned to him by this Act or the Statutes.

17. (*1*) The Director and Deputy Director of an Institute shall be appointed by the Visitor, on such terms and conditions of service and on the recommendations of a Selection Committee constituted by him in such manner, as may be prescribed by the Statutes. Director and Deputy Director.

(*2*) The Director shall be the principal academic and executive officer of the Institute and shall be responsible for the proper administration of the Institute and for the imparting of instruction and maintenance of discipline therein.

(*3*) The Director shall submit annual reports and accounts to the Board.

(*4*) The Director shall exercise such other powers and perform such other duties as may be assigned to him by this Act or the Statutes or Ordinances.

(5) The Deputy Director of every Institute shall exercise such powers and perform such other duties as may be assigned to him by this Act or the Statutes or by the Director.

Registrar.

18. (1) The Registrar of every Institute shall be appointed on such terms and conditions as may be laid down by the Statutes and shall be the custodian of records, the common seal, the funds of the Institute and such other property of the Institute as the Board shall commit to his charge.

(2) The Registrar shall act as the Secretary of the Board, Senate and such committees as may be prescribed by the Statutes.

(3) The Registrar shall be responsible to the Director for the proper discharge of his functions.

(4) The Registrar shall exercise such other powers and perform such other duties as may be assigned to him by this Act or the Statutes or by the Director.

Other authorities and officers.

19. The powers and duties of authorities and officers other than those mentioned above shall be determined by the Statutes.

Grants by Central Government.

20. For the purpose of enabling the Institutes to discharge their functions efficiently under this Act, the Central Government may, after due appropriation made by Parliament by law in this behalf, pay to every Institute in each financial year such sums of money and in such manner as it may think fit.

Fund of Institute.

21. (1) Every Institute shall maintain a Fund to which shall be credited,—

(a) all moneys provided by the Central Government;

(b) all fees and other charges received by the Institute;

(c) all moneys received by the Institute by way of grants, gifts, donations, benefactions, bequests or transfers; and

(d) all moneys received by the Institute in any other manner or from any other source.

(2) All moneys credited to the Fund of every Institute shall be deposited in such banks or invested in such manner as the Institute may, with the approval of the Central Government, decide.

(3) The Fund of every Institute shall be applied towards meeting the expenses of the Institute including expenses incurred in the exercise of its powers and discharge of its duties under this Act.

Accounts and audit.

22. (1) Every Institute shall maintain proper accounts and other relevant records and prepare an annual statement of accounts including the balance sheet in such form as may be specified by notification, by the Central Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of every Institute shall be audited by the Comptroller and Auditor-General of India and any expenditure incurred by him in connection with such audit shall be payable by the Institute to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General of India and any person appointed by him in connection with the audit of the accounts of any Institute shall have the same rights, privileges and authority in connection with such audit as the Comptroller and Auditor-General of India has in connection with the audit of the Government accounts, and, in particular shall have the rights to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect the offices of the Institute.

(4) The accounts of every Institute as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before each House of Parliament in accordance with such procedure as may be laid down by the Central Government.

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23. Every Institute shall constitute for the benefit of its employees such provident or pension fund or provide such insurance scheme as it may deem fit in such manner and subject to such conditions as may be prescribed by the Statutes. Pension and provident fund.

24. All appointments of the staff of every Institute, except that of the Director and Deputy Director, shall be made in accordance with the procedure laid down in the Statutes, by— Appointments.

(*a*) the Board, if the appointment is made on the academic staff in the post of Lecturer or above or if the appointment is made on the non-academic staff in any cadre the maximum of the pay scale for which exceeds rupees ten thousand five hundred;

(*b*) the Director, in any other case.

25. Subject to the provisions of this Act, the Statutes may provide for all or any of the following matters, namely:— Statutes.

(*a*) the conferment of honorary degrees;

(*b*) the formation of departments of teaching;

(*c*) the fees to be charged for courses of study in the Institute and for admission to the examinations of degrees and diplomas of the Institute;

(*d*) the institution of fellowships, scholarships, exhibitions, medals and prizes;

(*e*) the term of office and the method of appointment of officers of the Institute;

(*f*) the qualifications of teachers of the Institute;

(*g*) the classification, the method of appointment and the determination of the terms and conditions of service of teachers and other staff of the Institute;

(*h*) the constitution of pension, insurance and provident funds for the benefit of the officers, teachers and other staff of the Institute;

(*i*) the constitution, powers and duties of the authorities of the Institute;

(*j*) the establishment and maintenance of halls and hostels;

(*k*) the conditions of residence of students of the Institute and the levying of fees for residence in the halls and hostels and of other charges;

(*l*) the allowances to be paid to the Chairperson and members of the Board;

(*m*) the authentication of the orders and decisions of the Board; and

(*n*) the meetings of the Board, the Senate, or any Committee, the quorum at such meetings and the procedure to be followed in the conduct of their business.

26. (*1*) The first Statutes of each Institute shall be framed by the Central Government with the prior approval of the Visitor and a copy of the same shall be laid as soon as may be before each House of Parliament. Statutes how made.

(*2*) The Board may, from time to time, make new or additional Statutes or may amend or repeal the Statutes in the manner provided in this section.

(*3*) Every new Statute or addition to the Statutes or any amendment or repeal of Statutes shall require the previous approval of the Visitor who may grant assent or withhold assent or remit it to the Board for consideration.

(*4*) A new Statute or a Statute amending or repealing an existing Statute shall have no validity unless it has been assented to by the Visitor.

Ordinances.

27. Subject to the provisions of this Act and the Statutes, the Ordinances of every Institute may provide for all or any of the following matters, namely:—

(*a*) the admission of the students to the Institute;

(*b*) the courses of study to be laid down for all degrees and diplomas of the Institute;

(*c*) the conditions under which students shall be admitted to the degree or diploma courses and to the examinations of the Institute, and shall be eligible for degrees and diplomas;

(*d*) the conditions of award of the fellowships, scholarships, exhibitions, medals and prizes;

(*e*) the conditions and mode of appointment and duties of examining bodies, examiners and moderators;

(*f*) the conduct of examinations;

(*g*) the maintenance of discipline among the students of the Institute; and

(*h*) any other matter which by this Act or the Statutes is to be or may be provided for by the Ordinances.

Ordinances how made.

28. (*1*) Save as otherwise provided in this section, Ordinances shall be made by the Senate.

(*2*) All Ordinances made by the Senate shall have effect from such date as it may direct, but every Ordinance so made shall be submitted, as soon as may be, to the Board and shall be considered by the Board at its next meeting.

(*3*) The Board shall have power by resolution to modify or cancel any such Ordinance and such Ordinance shall from the date of such resolution stand modified accordingly or cancelled, as the case may be.

Tribunal of Arbitration.

29. (*1*) Any dispute arising out of a contract between an Institute and any of its employees shall, at the request of the employee concerned or at the instance of the Institute, be referred to a Tribunal of Arbitration consisting of one member appointed by the Institute, one member nominated by the employee, and an umpire appointed by the Visitor.

(*2*) The decision of the Tribunal shall be final and shall not be questioned in any court.

(*3*) No suit or proceeding shall lie in any court in respect of any matter, which is required by sub-section (*1*) to be referred to the Tribunal of Arbitration.

(*4*) The Tribunal of Arbitration shall have power to regulate its own procedure.

(*5*) Nothing in any law for the time being in force relating to arbitration shall apply to arbitrations under this section.

CHAPTER III

THE COUNCIL

Establishment of Council.

30. (*1*) With effect from such date as the Central Government may, by notification, specify in this behalf, there shall be established for all the Institutes specified in column (3) of the Schedule, a central body to be called the Council.

(*2*) The Council shall consist of the following members, namely:—

(*a*) the Minister in charge of the Ministry or Department of the Central Government having administrative control of the technical education, *ex officio*, as Chairman;

(*b*) the Secretary to the Government of India in charge of the Ministry or Department of the Central Government having administrative control of the technical education, *ex officio*, as Vice-Chairman;

(*c*) the Chairperson of every Board, *ex officio*;

(*d*) the Director of every Institute, *ex officio*;

(*e*) the Chairman, University Grants Commission, *ex officio*;

(*f*) the Director General, Council of Scientific and Industrial Research, *ex officio*;

(*g*) four Secretaries to the Government of India, to represent the Ministries or Departments of the Central Government dealing with biotechnology, atomic energy, information technology and space, *ex officio;*

(*h*) the Chairman, All India Council for Technical Education, *ex officio;*

(*i*) not less than three, but not more than five persons to be nominated by the Visitor, at least one of whom shall be a woman, having special knowledge or practical experience in respect of education, industry, science or technology;

(*j*) three members of Parliament, of whom two shall be chosen by the House of the People and one by the Council of States:

Provided that the office of member of the Council shall not disqualify its holder for being chosen as or for being, a member of either House of Parliament;

(*k*) two Secretaries to the State Government, from amongst the Ministries or Departments of that Government dealing with technical education where the Institutes are located, *ex officio*;

(*l*) Financial Advisor, dealing with the Human Resource Development Ministry or Department of the Central Government, *ex officio;*

(*m*) one officer not below the rank of Joint Secretary to the Government of India in the Ministry or Department of Central Government having administrative control of the Technical Education, *ex officio,* as Member-Secretary.

Term of office of, vacancies among, and allowances payable to members of Council.

31. (*1*) The terms of office of a member shall be three years from the date of notification:

Provided that the term of office of an *ex officio* member shall continue so long as he holds office by virtue of which he is such a member.

(*2*) The term of office of a member elected under clause (*j*) of sub-section (*2*) of section 30 shall expire as soon as he ceases to be member of the House, which elected him.

(*3*) The term of office of a member nominated or elected to fill a causal vacancy shall continue for the remainder of the term of the member in whose place he has been appointed.

(*4*) Notwithstanding anything contained in this section an outgoing member shall, unless the Central Government otherwise directs, continue in office until another person is appointed as a member in his place.

(*5*) The members of the Council other than *ex officio* member shall be paid such travelling and other allowances as may be prescribed.

Functions of Council.

32. (*1*) It shall be the general duty of the Council to co-ordinate the activities of all the Institutes.

(*2*) Without prejudice to the provisions of sub-section (*1*), the Council shall perform the following functions, namely:—

(*a*) to advise on matters relating to the duration of the courses, the degrees and other academic distinctions to be conferred by the Institutes, admission standards and other academic matters;

(*b*) to lay down policy regarding cadres, methods of recruitment and conditions of service of employees, institution of scholarships and freeships, levying of fees and other matters of common interest;

(*c*) to examine the development plans of each Institute and to approve such of them as are considered necessary and also to indicate broadly the financial implications of such approved plans;

(*d*) to advise the Visitor, if so required, in respect of any function to be performed by him under this Act; and

(*e*) to perform such other functions as are assigned to it by or under this Act.

Chairman of Council.

33. (*1*) The Chairman of the Council shall ordinarily preside at the meetings of the Council:

Provided that, in his absence, the Vice-Chairman of the Council shall preside at the meetings of the Council.

(*2*) It shall be the duty of the Chairman of the Council to ensure that the decisions taken by the Council are implemented.

(*3*) The Chairman shall exercise such other powers and perform such other duties as are assigned to him by this Act.

(*4*) The Council shall meet once in every year and follow such procedure in its meetings as may be prescribed.

Power to make rules in respect of matters in this Chapter.

34. (*1*) The Central Government may, by notification, make rules to carry out the purposes of this Chapter.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) the travelling and other allowances payable to members of the Council under sub-section (*5*) of section 31; and

(*b*) the procedure to be followed in the meetings of the council under sub-section (*4*) of section 33.

(*3*) Every rule made by the Central Government under this Chapter shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

CHAPTER IV

MISCELLANEOUS

Acts and proceedings not to be invalidated by vacancies, etc.

35. No act of the Council, or any Institute or Board or Senate or any other body set up under this Act or the Statutes, shall be invalid merely by reason of—

(*a*) any vacancy or defect in the constitution thereof, or

(*b*) any defect in the election, nomination or appointment of a person acting as a member thereof, or

(*c*) any irregularity in its procedure not affecting the merits of the case.

Power to remove difficulties.

36. (*1*) If any difficulty arises in giving effect to the provisions of this Act the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the date on which this Act receives the assent of the President.

(*2*) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

Transitional provisions.

37. Notwithstanding anything contained in this Act—

(*a*) the Board of Governors of every Institute functioning as such immediately before the commencement of this Act shall continue to so function until a new Board is constituted for that Institute under this Act, but on the constitution of a new Board under this Act, the member of the Board holding office before such constitution shall cease to hold office;

(*b*) every Senate constituted in relation to every Institute before the commencement of this Act shall be deemed to be the Senate constituted under this Act until a Senate is constituted under this Act for that Institute but on the constitution of new Senate under this Act, the members of the Senate holding office before such constitution shall cease to hold office.

THE SCHEDULE

[*See* sections 3 (*g*), (*m*) and 4 (*l*)]

LIST OF CENTRAL INSTITUTIONS INCORPORATED INTO THE ACT

Sl. No.	Society	Corresponding Institute
1	2	3
1.	Motilal Nehru National Institute of Technology, Allahabad Society	Motilal Nehru National Institute of Technology, Allahabad.
2.	Maulana Azad National Institute of Technology, Bhopal Society	Maulana Azad National Institute of Technology, Bhopal.
3.	National Institute of Technology, Calicut Society	National Institute of Technology, Calicut.
4.	National Institute of Technology, Durgapur Society	National Institute of Technology, Durgapur.
5.	National Institute of Technology, Hamirpur Society	National Institute of Technology, Hamirpur.
6.	Malaviya National Institute of Technology, Jaipur Society	Malaviya National Institute of Technology, Jaipur.
7.	Dr. B.R. Ambedkar National Institute of Technology, Jalandhar Society	Dr. B.R. Ambedkar National Institute of Technology, Jalandhar.
8.	National Institute of Technology, Jamshedpur Society	National Institute of Technology, Jamshedpur.
9.	National Institute of Technology, Kurukshetra Society	National Institute of Technology, Kurukshetra.
10.	Visvesvaraya National Institute of Technology, Nagpur Society	Visvesvaraya National Institute of Technology, Nagpur.
11.	National Institute of Technology, Patna Society	National Institute of Technology, Patna.
12.	National Institute of Technology, Rourkela Society	National Institute of Technology, Rourkela.
13.	National Institute of Technology, Silchar Society	National Institute of Technology, Silchar.
14.	National Institute of Technology, Srinagar Society	National Institute of Technology, Srinagar.
15.	Sardar Vallabhbhai National Institute of Technology, Surat Society	Sardar Vallabhbhai National Institute of Technology, Surat.
16.	National Institute of Technology Karnataka, Surathkal Society	National Institute of Technology Karnataka, Surathkal.

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1	2	3
17.	National Institute of Technology, Tiruchirappalli Society	National Institute of Technology, Tiruchirappalli.
18.	National Institute of Technology, Warangal Society	National Institute of Technology, Warangal.
19.	National Institute of Technology, Raipur Society	National Institute of Technology, Raipur.
20.	National Institute of Technology, Agartala Society	National Institute of Technology, Agartala.

Sd/-

K. N. CHATURVEDI,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

H. D. VYAS,
Secretary to Government.

Government Central Press, Gandhinagar.

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Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART VI

Acts of Parliament and Ordinances promulgated by the President

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 17th November, 2007.

No. RPB/57-2007/Act-30-07/E :— The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the19th June, 2007, Jyaistha 29, 1929 (Saka)

The following Act of Parliament has received the assent of the President on the 18th June, 2007, is hereby published for general information :-

THE STATE BANK OF INDIA (SUBSIDIARY BANKS LAWS) AMENDMENT ACT, 2007.

AN ACT

(Act No. 30 of 2007) (18th June, 2007)

further to amend the State Bank of Saurashtra Act, 1950, *the State Bank of Hyderabad Act,* 1956 *and the State Bank of India (Subsidiary Banks) Act,* 1959.

BE it enacted by Parliament in the Fifty-eighth Year of the Republic of India as follows:—

PART I

PRELIMINARY

1. (*1*) This Act may be called the State Bank of India (Subsidiary Banks Laws) Amendment Act, 2007. Short title and commencement.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

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CHAPTER II

AMENDMENTS TO THE STATE BANK OF SAURASHTRA ACT, 1950

Substitution of new section for section 5.

2. For section 5 of the State Bank of Saurashtra Act, 1950 (hereafter in this Chapter referred to as the State Bank of Saurashtra Act), the following section shall be substituted, namely:—

Authorised capital.

"5. (*1*) Subject to the provisions of this Act, the authorised capital of the Saurashtra Bank shall be rupees five hundred crores.

(*2*) The authorised capital of the Saurashtra Bank shall be divided into shares of one hundred rupees each or of such denomination as the Saurashtra Bank may, with the approval of the State Bank, decide.

(*3*) The Saurashtra Bank may issue the certificates of shares of equivalent values of such denomination as the Saurashtra Bank may decide with the approval of the State Bank, in accordance with the procedure as may be specified by regulations made under section 63 of the State Bank of India (Subsidiary Banks) Act, 1959 and every shareholder of the Saurashtra Bank shall be entitled to have the certificate of shares of equivalent value of such denomination. 38 of 1959.

(*4*) Notwithstanding anything contained in sub-section (*1*), the State Bank may, with the approval of the Reserve Bank, authorise the Saurashtra Bank to increase or reduce its authorised capital.".

Amendment of section 6.

3. In section 6 of the State Bank of Saurashtra Act,—

(*a*) after sub-section (*1*), the following sub-section shall be inserted, namely:—

"(*1A*) Notwithstanding anything contained in sub-section (*1*), the issued capital of the Saurashtra Bank, shall consist of such amount as the State Bank may, with the approval of the Reserve Bank, fix, and, shall be divided into fully paid-up shares of such denomination in accordance with sub-section (*2*) of section 5.";

(*b*) for sub-section (*3*), the following sub-sections shall be substituted, namely:—

"(*3*) The Saurashtra Bank may, from time to time, with the approval of the State Bank and the Reserve Bank, increase, whether by public issue or by preferential allotment or private placement in accordance with the procedure as may be specified by regulations made under section 63 of the State Bank of India (Subsidiary Banks) Act, 1959, its issued capital by issue of equity or preference shares. 38 of 1959.

(*3A*) The issued capital of the Saurashtra Bank shall consist of equity shares or equity and preference shares:

Provided that the issue of preference shares shall be in accordance with the guidelines framed by the Reserve Bank specifying the class of preference shares, the extent of issue of each class of such preference shares (whether perpetual or irredeemable or redeemable) and the terms and conditions subject to which, each class of preference shares may be issued.

(*3B*) The Saurashtra Bank may, with the approval of the State Bank and the Reserve Bank, increase from time to time by way of issuing bonus shares to existing equity shareholders, its issued capital in such manner as the State Bank, with the approval of the Reserve Bank, direct.

(*3C*) No increase or reduction in the issued capital of the Saurashtra Bank shall be made in such a manner that the State Bank holds at any time less than fifty-one per cent. of the issued capital consisting of equity shares of the Saurashtra Bank.

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(*3D*) The Saurashtra Bank may accept the money in respect of shares issued towards increase in issued capital in instalments, make calls and forfeit unpaid shares and re-issue them, in the manner as may be specified by regulations made under section 63 of the State Bank of India (Subsidiary Banks) Act, 1959.". 38 of 1959.

CHAPTER III

AMENDMENTS TO THE STATE BANK OF HYDERABAD ACT, 1956

79 of 1956.

4. For section 9 of the State Bank of Hyderabad Act, 1956 (hereafter in this Chapter referred to as the State Bank of Hyderabad Act), the following section shall be substituted, namely:— Substitution of new section for section 9.

"9. (*1*) Subject to the provisions of this Act, the authorised capital of the Hyderabad Bank shall be rupees five hundred crores. Authorised capital.

(*2*) The authorised capital of the Hyderabad Bank shall be divided into shares of one hundred rupees each or of such denomination as the Hyderabad Bank may, with the approval of the State Bank, decide.

(*3*) The Hyderabad Bank may issue the certificates of shares of equivalent values of such denomination as the Hyderabad Bank may decide with the approval of the State Bank, in accordance with the procedure as may be specified by regulations made under section 63 of the State Bank of India (Subsidiary Banks) Act, 1959 and every shareholder of the Hyderabad Bank shall be entitled to have the certificate of shares of equivalent value of such denomination. 38 of 1959.

(*4*) Notwithstanding anything contained in sub-section (*1*), the State Bank may, with the approval of the Reserve Bank, authorise the Hyderabad Bank to increase or reduce its authorised capital.".

5. In section 10 of the State Bank of Hyderabad Act,— Amendment of section 10.

(*a*) after sub-section (*1*), the following sub-section shall be inserted, namely:—

"(*1A*) Notwithstanding anything contained in sub-section (*1*), the issued capital of the Hyderabad Bank, shall consist of such amount as the State Bank may, with the approval of the Reserve Bank, fix, and shall be divided into fully paid-up shares of such denomination in accordance with sub-section (*2*) of section 9.";

(*b*) for sub-section (*3*), the following sub-sections shall be substituted, namely:—

"(*3*) The Hyderabad Bank may, from time to time, with the approval of the State Bank and the Reserve Bank, increase, whether by public issue or by preferential allotment or private placement in accordance with the procedure as may be specified by regulations made under section 63 of the State Bank of India (Subsidiary Banks) Act, 1959, its issued capital by issue of equity or preference shares. 38 of 1959.

(*3A*) The issued capital of the Hyderabad Bank shall consist of equity shares or equity and preference shares:

Provided that the issue of preference shares shall be in accordance with the guidelines framed by the Reserve Bank specifying the class of preference shares, the extent of issue of each class of such preference shares (whether perpetual or irredeemable or redeemable) and the terms and conditions subject to which, each class of preference shares may be issued.

(*3B*) The Hyderabad Bank may, with the approval of the State Bank and the Reserve Bank, increase from time to time by way of issuing bonus shares to existing equity shareholders, its issued capital in such manner as the State Bank, with the approval of the Reserve Bank, direct.

(*3C*) No increase or reduction in the issued capital of the Hyderabad Bank shall be made in such a manner that the State Bank holds at any time less than

fifty-one per cent. of the issued capital consisting of equity shares of the Hyderabad Bank.

(*3D*) The Hyderabad Bank may accept the money in respect of shares issued towards increase in issued capital in instalments, make calls and forfeit unpaid shares and re-issue them, in the manner as may be specified by regulations made under section 63 of the State Bank of India (Subsidiary Banks) Act, 1959.". 38 of 1959.

CHAPTER IV

AMENDMENTS TO THE STATE BANK OF INDIA (SUBSIDIARY BANKS) ACT, 1959

Substitution of new section for section 6.

6. For section 6 of the State Bank of India (Subsidiary Banks) Act, 1959 [hereafter in this Chapter referred to as the State Bank of India (Subsidiary Banks) Act], the following section shall be substituted, namely:— 38 of 1959.

Authorised capital of new bank.

"6. (*1*) Subject to the provisions of this Act, the authorised capital of every new bank shall be rupees five hundred crores.

(*2*) The authorised capital of every new bank shall be divided into shares of one hundred rupees each or of such denomination as the new bank may, with the approval of the State Bank, decide.

(*3*) Every new bank may issue the certificates of shares of equivalent values of such denomination as the new bank may, decide, with the approval of the State Bank, in accordance with the procedure as may be prescribed and every shareholder of the new bank shall be entitled to have the certificate of shares of equivalent value of such denomination.

(*4*) Notwithstanding anything contained in sub-section (*1*), the State Bank may, with the approval of the Reserve Bank, authorise a new bank to increase or reduce its authorised capital.".

Amendment of section 7.

7. In section 7 of the State Bank of India (Subsidiary Banks) Act,—

(*a*) after sub-section (*1*), the following sub-section shall be inserted, namely:—

"(*1A*) Notwithstanding anything contained in sub-section (*1*), the issued capital of a new bank shall, consist of such amount as the State Bank may, with the approval of the Reserve Bank, fix, and shall be divided into fully paid-up shares of such denomination in accordance with sub-section (*2*) of section 6.";

(*b*) for sub-sections (*4*) and (*5*), the following sub-sections shall be substituted, namely:—

"(*4*) A new bank may from time to time, with the approval of the State Bank and the Reserve Bank, increase, whether by public issue or by preferential allotment or private placement in accordance with the procedure as may be prescribed, its issued capital by issue of equity or preference shares.

(*5*) The issued capital of a new bank shall consist of equity shares or equity and preference shares:

Provided that the issue of preference shares shall be in accordance with the guidelines framed by the Reserve Bank specifying the class of preference shares, the extent of issue of each class of such preference shares (whether perpetual or irredeemable or redeemable) and the terms and conditions subject to which, each class of preference shares may be issued.

(*6*) A new bank may, with the approval of the State Bank and the Reserve Bank, increase from time to time by way of issuing bonus shares to existing equity shareholders, its issued capital in such manner as the State Bank, with the approval of the Reserve Bank, direct.

(7) No increase or reduction in the issued capital of a new bank shall be made in such a manner that the State Bank holds at any time less than fifty-one per cent. of the issued capital consisting of equity shares of new bank.

(8) A new bank may accept the money in respect of shares issued towards increase in issued capital in instalments, make calls and forfeit unpaid shares and re-issue them, in the manner as may be prescribed.".

8. In section 18 of the State Bank of India (Subsidiary Banks) Act, in sub-section (2), for the words "fifty-five per cent. of the issued capital", the words "fifty-one per cent. of the issued capital consisting of equity shares" shall be substituted. Amendment of section 18.

9. After section 18 of the State Bank of India (Subsidiary Banks) Act, the following section shall be inserted, namely:— Insertion of new section 18A.

"18A. (1) Every individual registered shareholder of a subsidiary bank may, at any time, nominate, in the prescribed manner, an individual to whom all his rights in the shares shall vest in the event of his death. Right of registered shareholder to nominate.

(2) Where the shares are registered in the name of more than one individual jointly, the joint holders may together nominate in the prescribed manner, an individual to whom all their rights in the shares shall vest in the event of the death of all the joint holders.

(3) Notwithstanding anything contained in any other law for the time being in force or in any disposition, whether testamentary or otherwise, in respect of such shares where a nomination made in the prescribed manner purports to confer on any individual the right to vest the shares, the nominee shall, on the death of the shareholder or, as the case may be, on the death of all the joint holders, become entitled to all the rights of the shareholder or, as the case may be, of all the joint holders, in relation to such shares to the exclusion of all other persons unless the nomination is varied or cancelled in the prescribed manner.

(4) Where the nominee is a minor, it shall be lawful for the individual registered as the holder of the shares to make nomination to appoint, in the prescribed manner, any person to become entitled to the shares in the event of his death during the minority of the nominee.".

10. For section 19 of the State Bank of India (Subsidiary Banks) Act, the following section shall be substituted, namely:— Substitution of new section for section 19.

"19. No shareholder, other than the State Bank, shall be entitled to exercise voting rights in respect of any shares held by him in excess of ten per cent. of the issued capital of the subsidiary bank concerned: Restriction on voting rights.

Provided that the shareholder holding any preference share capital in the subsidiary bank shall, in respect of such capital, have a right to vote only on resolutions placed before such subsidiary bank which directly affect the rights attached to his preference shares:

Provided further that no preference shareholder shall be entitled to exercise voting rights in respect of preference shares held by him in excess of ten per cent. of the total voting rights of all the shareholders holding preference share capital only.".

11. Section 21 of the State Bank of India (Subsidiary Banks) Act shall be numbered as sub-section (1) thereof and after sub-section (1) as so numbered, the following sub-sections shall be inserted, namely:— Amendment of section 21.

"(2) Notwithstanding anything contained in sub-section (1), it shall be lawful for a subsidiary bank to keep the register of shareholders in computer floppies or diskettes or any other electronic form subject to such safeguards as may be prescribed.

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(3) Notwithstanding anything contained in the Indian Evidence Act, 1872, a copy of, or extract from, the register of shareholders, certified to be a true copy under the hand of any officer of the subsidiary bank authorised in this behalf shall in all legal proceedings, be admissible in evidence.". 1 of 1872.

Amendment of section 22.

12. In section 22 of the State Bank of India (Subsidiary Banks) Act, for the words and figures "Notwithstanding anything contained in section 19, no notice of any trust,", the words "No notice of any trust," shall be substituted.

Amendment of section 25.

13. In section 25 of the State Bank of India (Subsidiary Banks) Act,—

(i) in sub-section (1)—

(a) for clause (a), the following clause shall be substituted, namely:—

"(a) the Chairman for the time being of the State Bank, *ex officio* or an official of the State Bank or of the subsidiary bank nominated by him as Chairman, with the approval of the Reserve Bank;";

(b) for clause (b), the following clause shall be substituted, namely:—

"(b) one director, possessing necessary expertise and experience in the matters relating to regulation or supervision of commercial banks, to be nominated by the Reserve Bank;";

(c) for clause (d), the following clause shall be substituted, namely:—

"(d) not more than three directors to be elected in the following manner, namely:—

(i) if the total amount of holdings of the shareholders (other than the State Bank) of a subsidiary bank is more than one per cent. of the total issued capital, and equal to or less than sixteen per cent. of such capital, one director to be elected, in the prescribed manner, by such shareholders and two directors shall be nominated by the State Bank, or

(ii) if the total amount of holdings of the shareholders (other than the State Bank) of a subsidiary bank is more than sixteen per cent. of the total issued capital and equal to or less than thirty-two per cent. of such capital, two directors to be elected in the prescribed manner by such shareholders and one director shall be nominated by the State Bank, or

(iii) if the total amount of holdings of the shareholders (other than the State Bank) of a subsidiary bank is more than thirty-two per cent. of the total issued capital, all the three directors to be elected, in the prescribed manner, by such shareholders:

Provided that in case, the total amount of holdings of the shareholders of a subsidiary bank (other than the State Bank) is not more than one per cent. of the total issued capital, all three directors shall be nominated by the State Bank and such directors shall, for the purposes of this Act, be deemed to be directors elected under this clause.

Explanation.—For the purposes of this sub-section, the total amount of holdings of the shareholders (other than the State Bank) whose names are on the register of shareholders of the subsidiary bank three months before the date fixed for election of directors shall be taken into account.";

(ii) sub-section (3) shall be omitted;

(iii) in sub-section (4), the words "the Reserve Bank or" shall be omitted.

Insertion of new sections 25A and 25B.

14. After section 25 of the State Bank of India (Subsidiary Banks) Act, the following sections shall be inserted, namely:—

"25A. (*1*) The Directors to be elected under clause (*d*) of sub-section (*1*) of section 25 shall— Fit and proper status of an elected director.

(*a*) have special knowledge or practical experience in respect of one or more of the following matters, namely:—

(*i*) agricultural and rural economy,

(*ii*) banking,

(*iii*) co-operation,

(*iv*) economics,

(*v*) finance,

(*vi*) law,

(*vii*) small-scale industry,

(*viii*) any other matter the special knowledge of, and practical experience in, which would, in the opinion of the Reserve Bank, be useful to the subsidiary bank;

(*b*) represent the interests of depositors; or

(*c*) represent the interests of farmers, workers and artisans.

(*2*) Without prejudice to the provisions of sub-section (*1*) and notwithstanding anything to the contrary contained in this Act or in any other law for the time being in force, no person shall be eligible to be elected as director under clause (*d*) of sub-section (*1*) of section 25 unless he is a person having fit and proper status based upon track record, integrity and such other criteria as the Reserve Bank may notify from time to time in this regard.

(*3*) The Reserve Bank may also specify in the notification issued under sub-section (*2*), the authority to determine the fit and proper status, the manner of such determination, the procedure to be followed for such determinations and such other matters as may be considered necessary or incidental thereto.

(*4*) Where the Reserve Bank is of the opinion that any director of a subsidiary bank elected under clause (*d*) of sub-section (*1*) of section 25 does not fulfil the requirements of sub-sections (*1*) and (*2*), it may, after giving to such director and the subsidiary bank a reasonable opportunity of being heard, by order, remove such director and on such removal, the Board of Directors shall co-opt any other person fulfilling the requirements of the said sub-sections as a director in place of the person so removed till a director is duly elected by the shareholders of the subsidiary bank in the next annual general meeting and the person so co-opted shall be deemed to have been duly elected by the shareholders of the subsidiary bank as a director.

25B. (*1*) If the Reserve Bank is of the opinion that in the interest of banking policy or in the public interest or in the interests of the subsidiary bank or its depositors, it is necessary so to do, it may, from time to time and by order in writing appoint, with effect from such date as may be specified in the order, one or more persons to hold office as additional directors of the subsidiary bank. Power of Reserve Bank to appoint additional directors.

(*2*) Any person appointed as additional director in pursuance of this section shall—

(*a*) hold office during the pleasure of the Reserve Bank and subject thereto for a period not exceeding three years or such further period not exceeding three years at a time as the Reserve Bank may specify;

(*b*) not incur any obligation or liability by reason only of his being a director or for anything done or omitted to be done in good faith in the execution of the duties of his office or in relation thereto; and

(*c*) not be required to hold qualification shares in the subsidiary bank.

(*3*) For the purpose of reckoning any proportion of the total number of directors of the subsidiary bank, any additional director appointed under this section shall not be taken into account.".

Amendment of section 27.

15. In section 27 of the State Bank of India (Subsidiary Banks) Act, in sub-section (*5*), in clause (*a*), for the words and figures "Banking Companies Act, 1949", the words and figures "Banking Regulation Act, 1949" shall be substituted.

Amendment of section 34.

16. In section 34 of the State Bank of India (Subsidiary Banks) Act,—

(*a*) for sub-section (*1*), the following sub-section shall be substituted, namely:—

"(*1*) The Board of Directors of a subsidiary bank shall meet at such time and place and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be prescribed; and the meeting of the Board of Directors may be held by participation of the directors of the Board through video-conferencing or such other electronic means, as may be prescribed, which are capable of recording and recognising the participation of the directors and the proceedings of such meetings are capable of being recorded and stored:

Provided that the Central Government may in consultation with the Reserve Bank, by a notification in the Official Gazette, specify the powers which shall not be exercised in a meeting of the Board of Directors held through video-conferencing or such other electronic means.";

(*b*) in sub-section (*2*), for the words "The Chairman of the State Bank", the words "The Chairman of the Board of Directors of a subsidiary bank" shall be substituted;

(*c*) for sub-section (*3*), the following sub-section shall be substituted, namely:—

"(*3*) All questions at the meeting of the Board of Directors of a subsidiary bank shall be decided by a majority of the votes of the directors present in the meeting or through video-conferencing or such other electronic means and in the case of equality of votes, the Chairman of Board of Directors of a subsidiary bank or, in his absence, the person presiding at the meeting shall have a second or casting vote.";

(*d*) in sub-section (*5*), in the proviso, in clause (*ii*), for the words, brackets and letters "of the Reserve Bank or the State Bank nominated under clause (*b*) or clause (*c*)", the words, brackets and letter "of the State Bank nominated under clause (*c*)" shall be substituted;

(*e*) in sub-section (*6*), the words "and the Reserve Bank" shall be omitted.

Insertion of new section 35A.

17. After section 35 of the State Bank of India (Subsidiary Banks) Act, the following section shall be inserted, namely:—

Supersession of Board of Directors in certain cases.

"35A. (*1*) Where the Reserve Bank, on the recommendation of the State Bank is satisfied that in the public interest or for preventing the affairs of a subsidiary bank being conducted in a manner detrimental to the interest, of the depositors or the subsidiary bank or for securing the proper management of the subsidiary bank, it is necessary so to do, the Reserve Bank may, for reasons to be recorded in writing, by order, supersede the Board of Directors of the subsidiary bank for a period not exceeding six months as may be specified in the order:

Provided that the period of supersession of the Board of Directors may be extended from time to time, so, however, that the total period shall not exceed twelve months.

(*2*) The Reserve Bank may, on supersession of the Board of Directors of the subsidiary bank under sub-section (*1*), appoint, for such period as it may determine, an Administrator (not being an officer of the Central Government or a State Government) who has experience in law, finance, banking, economics or accountancy.

(*3*) The Reserve Bank may issue such directions to the Administrator as it may deem appropriate and the Administrator shall be bound to follow such directions.

(*4*) Upon making the order of supersession of the Board of Directors of the subsidiary bank, notwithstanding anything contained in this Act,—

(*a*) the chairman, managing director and other directors shall, as from the date of supersession, vacate their offices as such;

(*b*) all the powers, functions and duties which may, by or under this Act, or any other law for the time being in force, be exercised and discharged by or on behalf of the Board of Directors of such subsidiary bank, or by a resolution passed in general meeting of the subsidiary bank, shall, until the Board of Directors of the subsidiary bank is reconstituted, be exercised and discharged by the Administrator appointed by the Reserve Bank under sub-section (*2*):

Provided that the power exercised by the Administrator shall be valid notwithstanding that such power is exercisable by a resolution passed in the general meeting of the subsidiary bank.

(*5*) The Reserve Bank may constitute a committee of three or more persons who have experience in law, finance, banking, economics or accountancy to assist the Administrator in the discharge of his duties.

(*6*) The committee referred to in sub-section (*5*) shall meet at such times and places and observe such rules of procedure as may be specified by the Reserve Bank.

(*7*) The salary and allowances payable to the Administrator and the members of the Committee constituted under sub-section (*5*) by the Reserve Bank shall be such as may be specified by the Reserve Bank and be payable by the concerned subsidiary bank.

(*8*) On and before the expiration of two months before expiry of the period of supersession of the Board of Directors as specified in the order issued under sub-section (*1*), the Administrator of the subsidiary bank, shall call the general meeting of the subsidiary bank to elect new directors and reconstitute its Board of Directors.

(*9*) Notwithstanding anything contained in any other law or in any contract, the memorandum or articles of association, no person shall be entitled to claim any compensation for the loss or termination of his office.

(*10*) The Administrator appointed under sub-section (*2*) shall vacate office immediately after the Board of Directors of the subsidiary bank has been reconstituted.".

18. In section 38 of the State Bank of India (Subsidiary Banks) Act, in sub-section (*10*), in clause (*a*), for the words and figures "Banking Companies Act, 1949", the words and figures "Banking Regulation Act, 1949" shall be substituted. Amendment of section 38.

19. In section 39 of the State Bank of India (Subsidiary Banks) Act, for the word "December", the word "March" shall be substituted. Amendment of section 39.

20. After section 40 of the State Bank of India (Subsidiary Banks) Act, the following section shall be inserted, namely:— Insertion of new section 40A.

'40A. (*1*) Where, after the commencement of the State Bank of India (Subsidiary Banks Laws) Amendment Act, 2007, a dividend has been declared by the subsidiary bank but has not been paid, or claimed, within thirty days from the date of declaration, to or by any shareholder entitled to the payment of the dividend, the subsidiary bank shall, within seven days from the date of the expiry of such period of thirty days, transfer the total amount of dividend which remains unpaid, or unclaimed within the said period of thirty days, to a special account to be called "unpaid dividend account of ..... (Name of the subsidiary bank)". Transfer of unpaid or unclaimed dividend to unpaid dividend account.

Explanation.— In this sub-section, the expression "dividend which remains unpaid" means any dividend the warrant in respect thereof has not been encashed or which has otherwise not been paid or claimed.

(*2*) Where the whole or any part of any dividend, declared by the subsidiary bank before the commencement of the State Bank of India (Subsidiary Banks Laws) Amendment Act, 2007, remains unpaid at such commencement, the subsidiary bank shall, within a period of six months from such commencement, transfer such unpaid amount to the account referred to in sub-section (*1*).

(*3*) Any money transferred to the unpaid dividend account of the subsidiary bank in pursuance of this section, which remains unpaid or unclaimed for a period of seven years from the date of such transfer shall be transferred by the subsidiary bank

to the Investor Education and Protection Fund established under sub-section (*1*) of section 205C of the Companies Act, 1956.'. 1 of 1956.

(*4*) The money transferred under sub-section (*3*) to the Investor Education and Protection Fund shall be utilised for the purposes and in the manner specified in section 205C of the Companies Act, 1956.'. 1 of 1956.

Amendment of section 43.

21. In section 43 of the State Bank of India (Subsidiary Banks) Act,—

(*a*) in sub-section (*1*), in clause (*a*), for the word "December", the word "March" shall be substituted;

(*b*) for sub-section (*2*), the following sub-section shall be substituted, namely:—

"(*2*) The balance-sheet and profit and loss account of the subsidiary bank shall be signed by persons holding the office of the chairman, managing director, and a majority of the other directors of the subsidiary bank in office.".

Amendment of section 44.

22. In section 44 of the State Bank of India (Subsidiary Banks) Act,—

(*a*) in sub-section (*2*),—

(*i*) for the words "discuss the balance-sheet", the words "discuss and adopt the balance-sheet" shall be substituted;

(*ii*) for the word "December", the word "March" shall be substituted;

(*b*) in sub-section (*3*), for the word "December", the word "March" shall be substituted.

Amendment of section 48.

23. In section 48 of the State Bank of India (Subsidiary Banks) Act, in sub-section (*2*), for the words and figures "Indian Income-tax Act, 1922", the words and figures "Income tax-Act, 1961" shall be substituted. 11 of 1922. 43 of 1961.

Amendment of section 50.

24. In section 50 of the State Bank of India (Subsidiary Banks) Act, after sub-section (*1*), the following sub-section shall be inserted, namely:—

"(*1A*) The officers, advisers and employees of the subsidiary bank concerned shall individually or jointly, or with other officers, advisers and employees in a committee exercise such powers and perform such duties as may, by general or special order, be entrusted or delegated to them by the Board of Directors or its Executive Committee.".

Amendment of section 55.

25. In section 55 of the State Bank of India (Subsidiary Banks) Act, for the words "Banking Companies Act", the words "Banking Regulation Act" shall be substituted.

Amendment of section 63.

26. In section 63 of the State Bank of India (Subsidiary Banks) Act,—

(*a*) for sub-section (*1*), the following sub-section shall be substituted, namely:—

"(*1*) The Board of Directors of a subsidiary bank may, after consultation with the State Bank and with the previous approval of the Reserve Bank, by notification in the Official Gazette, make regulations not inconsistent with this Act and the rules made thereunder, to provide for all matters for which provision is necessary or expedient for the purpose of giving effect to the provisions of this Act or any other law for the time being in force;";

(*b*) in sub-section (*2*),—

(*i*) after clause (*f*), the following clauses shall be inserted, namely:—

"(*fa*) the procedure for issuing the certificates of shares;

(*fb*) the procedure with respect to increase, whether by public issue or by preferencial allotment or private placement, the issued capital by issue of equity or preference shares;

(*fc*) the manner of acceptance of share money in instalments, the manner of making calls and the manner of forfeiture of unpaid shares and their re-issue;";

(*ii*) for clause (*g*), the following clauses shall be substituted, namely:—

"(*g*) the maintenance of share registers, and the particulars to be entered in such registers in addition to those specified in sub-section (*1*) of section 21, the safeguards to be observed in the maintenance of the register of shareholders on computer floppies or diskettes or any other electronic form, the inspection and closure of the registers and all other matters connected therewith;

(*ga*) the manner in which every individual registered shareholder nominate, an individual to whom all his rights in the shares shall vest in the event of his death under sub-section (*1*) of section 18A;

(*gb*) the manner in which, the joint holders may nominate an individual to whom all their rights in the shares shall vest in the event of the death of all the joint holders under sub-section (*2*) of section 18A;

(*gc*) the manner in which nomination is varied or cancelled under sub-section (*3*) of section 18A;

(*gd*) the manner in which every individual registered as the holder of the shares to make nomination where nominee is a minor to appoint, any person to become entitled to the shares in the event of his death during the minority of the nominee under sub-section (*4*) of section 18A;";

(*c*) in sub-section (*4*), for the words "made under this Act", the words "made under this section" shall be substituted.

Sd/-

K. N. CHATURVEDI,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

H. D. VYAS,
Secretary to Government.

Government Central Press, Gandhinagar.

Extra No. 36 REGISTERED No. G/GNR/2

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PART - VI

Acts of Parliament and Ordinances promulgated by the President.

Legislative & Parliamentary Affairs Department

Sachivalaya, Gandhinagar, 23rd November, 2007.

No. RPB/8-2007/Ord.-08-07/E :- The following Ordinance promulgated by the President and published in the Gazette of India, Extraordinary, Part II, Section 1, dated the 27th October, 2007 is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

(LEGISLATIVE DEPARTMENT)

New Delhi, the 27th October, 2007./Kartika 5, 1929 (Saka)

THE PAYMENT OF BONUS (AMENDMENT) ORDINANCE, 2007

No. 8 of 2007

Promulgated by the President in the Fifty-eighth Year of the Republic of India.

An Ordinance further to amend the Payment of Bonus Act, 1965.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for her to take immediate action;

Now, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

Short title and commencement.

1. (1) This Ordinance may be called the Payment of Bonus (Amendment) Ordinance. 2007.

(2) It shall be deemed to have come into force on the 1st day of April, 2006.

Amendment of section 2.

21 of 1965

2. In section 2 of the Payment of Bonus Act, 1965 (hereinafter referred to as the principal Act), in clause (13), for the words "three thousand and five hundred rupees", the words "ten thousand rupees" shall be substituted.

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Amendment of section 12.

3. In section 12 of the principal Act, for the words "two thousand and five hundred rupees", in both the places where they occur, the words "three thousand and five hundred rupees" shall be substituted.

Amendment of section 32.

4. In section 32 of the principal Act, clause (vi) shall be omitted.

Sd/-

PRATIBHA DEVISINGH PATIL,
President.

K. N. CHATURVEDI,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

H. D. VYAS,
Secretary to Government.

Government Central Press, Gandhinagar.

Extra No. 37 REGISTERED No. G/GNR/2

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PART - VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE & PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 4th December, 2007.

No. RPB/58-2007/Act-31-07/E :- The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

(LEGISLATIVE DEPARTMENT)

New Delhi, the 30th August, 2007./Bhadra 8, 1929 (Sake)

The following Act of Parliament has received the assent of the President on the 29th August, 2007, is hereby published for general information :-

THE CONSTITUTION (SCHEDULED CASTES) ORDER (AMENDMENT) ACT, 2007

AN ACT

(Act No. 31 of 2007) [29th August, 2007]

further to amend the constitution (Scheduled Castes) order, 1950.

BE it enacted by Parliament in the Fifty-eighth Year of the Republic of India as follows :-

Short title.

1. This Act may be called the Constitution (Scheduled Castes) Order (Amendment) Act, 2007.

C. O. 19

Amendment of the Schedule.

2. In the schedule to the Constitution (Scheduled Castes) Order, 1950-

(a) In Part V.-Haryana-

(i) for entry 5, substitute

"5, Batwal, Barwala";

(ii) for entry 24, substitute—

"24, Megh, Meghwal";

(b) In Part VIII.-Kerala, for entry 61, substitute—

"61. Thandan (excluding Ezhuvas and Thiyyas who are known as Thandan, in the erstwhile Cochin and Malabar areas) and (Carpenters who are known as Thachan, in the erstwhile Cochin and Travancore State)";

(c) In Part IX.- Madhya Pradesh, for entry 2, substitute—

"2, Bagri, Bagdi (excluding Rajput, Thakur sub-castes among Bagri, Bagdi)";

INDEX

(d) In Part X.- Maharashtra,-

(i) for entry 8, substitute—

"8. Basor, Barud, Bansor, Bansodi, Basod";

(ii) for entries 11 and 12, substitute—

"11. Bhambi, Bhambhi, Asadaru, Asodi, Chamadia, Chamar, Chamari, Chambhar, Chamgar, Haralayya, Harali, Khalpa, Machigar, Mochigar, Madar, Madig, Mochi, Telegu Mochi, Kamati Mochi, Ranigar, Rohidas, Nona, Ramnami, Rohit, Samgar, Samagara, Satnami, Surjyabanshi, Surjyaramnami, Charmakar, Pardeshi Chamar;

12, Bhangi, Mehtar, Olgana, Rukhi, Malkana, Halalkhor, Lalbegi, Balmiki, Korar, Zadmalli, Hela";

(e) In Part XIII.- Orissa,-

(i) for entry 19, substitute-

"19, Chamar, Chamara, Chamar-Ravidas, Chamar-Rohidas, Mochi, Muchi, Satnami";

(ii) for entry 42, substitute-

"42. Kandra, Kandara, Kadama, Kuduma, Kodma, Kodama";

(f) In Part XIV.- Punjab, after entry 38, insert--

"39. Mahatam, Rai Sikh";

(g) In Part XXIII.- Chhattisgarh, after entry 43, insert—

"44, Turi".

Sd/-

Dr. B. A. AGRAWAL,

Additional Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

H. D. VYAS,

Secretary to Government.

Government Central Press, Gandhinagar.

Extra No. 38 REGISTERED No. G/GNR/2

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PART - VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE & PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 4th December, 2007.

No. RPB/59-2007/Act-32-07/E :- The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 7th September, 2007,/Bhadra 16, 1929 (Saka)

The following Act of Parliament has received the assent of the President on the 3rd September, 2007, is hereby published for general information :-

THE STATE BANK OF INDIA (AMENDMENT) ACT, 2007

AN ACT

(Act No. 32 of 2007) [3rd September, 2007]

further to amend the State Bank of India Act, 1955.

Be it enacted by Parliament in to the Fifty-eight Year of the Republic of India as follows :-

Short title and commencement.

1. *(1)* This Act may be called the State Bank of India (Amendment) Act, 2007.

(2) It shall be deemed to have come into force on the 29th day of June, 2007.

23 of 1955.

Amendment of section 3.

2. In the State Bank of India Act, 1955 (hereinafter referred to as the Principal Act), in section 3, in sub-section *(2)*, for the words "Reserve Bank", the words "Central Government" shall be substituted.

Amendment of section 5.

3. In section 5 of the Principal Act in sub-section *(2)*, for the words "Reserve Bank" the words "Central Government" shall be substituted.

Amendment of section 10.

4. In section 10 of the Principal Act, in sub-section *(2)*, for the words "Reserve Bank", the words "Central Government" shall be substituted.

Amendment of section 11.

5. In section 11 of the Principal Act, for the words "Reserve Bank" the words "Central Government" shall be substituted.

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Amendment of section 18.

6. In section 18 of the Principal Act, in sub-section *(2)*, for the words "All directions given by the Central Government shall be given through the Reserve Bank", the words "All directions shall be given by the Central Government" shall be substituted.

Amendment of section 19.

7. In section 19 of the Principal Act, in clause *(c)*, for the words " Reserve Bank", the words "Central Government" shall be substituted.

Amendment of section 24.

8. In section 24 of the Principal Act in sub-section *(4)*, for the words " Reserve Bank", the words "Central Government" shall be substituted.

Amendment of section 36.

9. In section 36 of the Principal Act, –

(1) in sub-section *(1)*, –

(a) in clause (a), for the words "Reserve Bank", the words " Central Government" shall be substituted.

(b) in clause *(b)*,-

(i) the words "Reserve Bank or" shall be omitted;

(ii) in the proviso,–

(A) For the words " Reserve Bank", occuring at both the places, the words "Central Government" shall be substituted.

(B) For the words " Paid to that Bank", the words "paid to that Government" shall be substituted;

(2) in clause *(a)* and clause *(aa)* of sub-section (2) and in sub-section *(3)*, for the words "Reserve Bank", wherever they occur, the words "Central Government" shall be substituted.

Repeal and saving

10. *(1)* The State Bank of India (Amendment) Ordinance, 2007, is hereby repealed. **Ord. 5 of 2007**

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act.

Sd/-

Dr. K. N. CHATURVEDI,

Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

H. D. VYAS,

Secretary to Government.

Government Central Press, Gandhinagar.

Extra No. 39 REGISTERED No. G/GNR/2

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Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART VI

Acts of Parliament and Ordinances Promulgated by the President.

LEGISLATIVE & PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 4th December, 2007.

No. RPB/62-2007/Act-35--07/E:-The following Act of Parliament is republished for General information:-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 17 th September, 2007, Bhadra 26, 1929 (Sake)

The following Act of Parliament has received the assent of the President on the 17th September, 2007, is hereby published for general information:-

THE INLAND VESSELS (AMENDMENT) ACT, 2007

AN ACT

(Act No. 35 of 2007) [17th September, 2007]

further to amend the Inland Vessels Act, 1917.

BE it enacted by Parliament in the Fifty-eighth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Inland Vessels (Amendment) Act, 2007.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of section 1.

1 of 1917.

2. In section 1 of the Inland Vessels Act, 1917 (hereinafter referred to as the principal Act), in sub-section (*2*), the proviso shall be omitted.

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Amendment of section 2.

3. In section 2 of the principal Act, in sub-section (*1*),—

(*i*) for clauses (*a*), (*b*) and (*c*), the following clauses shall, respectively, be substituted, namely:—

'(*a*) "inland vessel" or "inland mechanically propelled vessel" means a mechanically propelled vessel, which ordinarily plies on inland water, but does not include fishing vessel and a ship registered under the Merchant Shipping Act, 1958; 44 of 1958.

(*b*) "inland water" means—

(*i*) any canal, river, lake or other navigable water within a State,

(*ii*) any area of any tidal water deemed to be the inland water as defined by the Central Government under section 70,

(*iii*) waters declared by the Central Government to be smooth and partially smooth waters under clause (*41*) of section 3 of the Merchant Shipping Act, 1958; 44 of 1958.

(*c*) "mechanically propelled vessel" means every description of vessel propelled wholly or in part by electricity, steam or other mechanical power including dumb vessel towed by the mechanically propelled vessel and vessel propelled by outboard motor;';

(*ii*) after clause (*g*), the following clause shall be inserted, namely:—

'(*ga*) "tidal water" has the meaning assigned to it in clause (*49*) of section 3 of the Merchant Shipping Act, 1958;'. 44 of 1958.

Amendment of section 3.

4. In section 3 of the principal Act, in sub-section (*1*),—

(*i*) for the words "and applicable to such voyage or service", the words "in the zone intended for operation and applicable to such voyage or service in such zone" shall be substituted;

(*ii*) the following *Explanation* shall be inserted at the end, namely:—

'*Explanation*.—For the purposes of this sub-section, "zone" means any such inland water area as the State Government may, depending on the maximum significant wave height criteria, by notification in the Official Gazette, specify for the purposes of this Act.'.

Insertion of new section 9A.

5. After section 9 of the principal Act, the following section shall be inserted, namely:—

Temporary permit.

"9A. The surveyor who conducted the survey may, without following the procedure laid down in section 9, grant a permit to be effective for a period which shall not in any case exceed forty-five days, to authorise the inland mechanically propelled vessel to proceed on voyage or use in service temporarily pending the issue of the certificate of survey.".

Amendment of section 19I.

6. In section 19I of the principal Act, in sub-section (*3*), for the words "twelve months", the words "thirty-six months" shall be substituted.

Amendment of section 22.

7. In section 22 of the principal Act,—

(*i*) in sub-section (*1*), for the words and figures "an inland mechanically propelled vessel for a period of three years before the first day of November, 1956", the words "a vessel of the Coast Guard, Indian Navy or regular Army for a period as may be prescribed by the State Government in this behalf" shall be substituted;

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(*ii*) after sub-section (*1*), the following *Explanation* shall be inserted at the end, namely:—

'*Explanation*.—For the purposes of this section,—

(*a*) the expression "Coast Guard" shall have the meaning assigned to it in clause (*d*) of section 2 of the Coast Guard Act, 1978;

30 of 1978.

(*b*) the expression "Indian Navy" shall have the meaning assigned to it in clause (*10*) of section 3 of the Navy Act, 1957;

62 of 1957.

(*c*) the expression "regular Army" shall have the meaning assigned to it in clause (*xxi*) of section 3 of the Army Act, 1950.'.

46 of 1950.

8. In section 30 of the principal Act, clause (*a*) shall be re-lettered as clause (*aa*), and before clause (*aa*) as so re-lettered, the following clause shall be inserted, namely:— Amendment of section 30.

"(*a*) the period of service in the Coast Guard, Indian Navy or regular Army which is required for a person to be granted a certificate without examination under section 22,".

9. For section 31 of the principal Act, the following section shall be substituted, namely:— Substitution of new section for section 31.

"31. A certificate of competency or service and licence granted under this Chapter shall have effect throughout India.". Effect of certificates of competency or service and licences.

10. In section 52 of the principal Act, in sub-section (*2*),— Amendment of section 52.

(*a*) in clause (*i*), the word "and" occurring at the end shall be omitted;

(*b*) after clause (*j*), the following clauses shall be inserted, namely:—

"(*k*) prescribe the requirements that the hull, equipment and machinery of inland mechanically propelled vessel shall comply with;

(*l*) prescribe the requirement of life saving appliances; and

(*m*) prescribe the apparatus required for communication and navigation.".

11. For section 54C of the principal Act, the following section shall be substituted, namely:— Substitution of new section for section 54C.

'54C. The provisions of section 134, Chapters X, XI and XII of the Motor Vehicles Act, 1988 shall, as far as may be apply, in relation to the mechanically propelled vessels as they apply in relation to motor vehicles, subject to the following modifications, namely:— Application of section 134, Chapters X, XI and XII of the Motor Vehicles Act, 1988 in relation to the mechanically propelled vessels.

59 of 1988.

(*a*) in section 134 and throughout in Chapters X, XI and XII,—

(*i*) references to "motor" or "motor vehicle" or "vehicle" shall be construed as references to "mechanically propelled vessel";

(*ii*) references to "public place" shall be construed as references to "inland water";

(*iii*) references to "public service vehicle" shall be construed as references to "public service vessel";

(*iv*) references to "goods vehicle" shall be construed as references to "goods service vessel";

(*v*) references to "State Transport" shall be construed as references to "State Water Transport";

(*vi*) references to "driver" or "driver of a vehicle" shall be construed as references to "master of a vessel";

(*vii*) references to "driving licence" shall be construed as references to "a certificate granted under Chapter III of the Inland Vessels Act, 1917"; 1 of 1917.

(*viii*) references to "permit" shall be construed as references to "a certificate of registration granted under section 19F of the Inland Vessels Act, 1917", 1 of 1917.

and such other consequential amendments as the rules of grammar may require, shall also be made;

(*b*) in section 145,—

(*i*) after clause (*a*), the following clause shall be inserted, namely:—

'(*aa*) "goods service vessel" means any mechanically propelled vessel used or adapted to be used for carriage of cargo for hire or reward;';

(*ii*) after clause (*d*), the following clause shall be inserted, namely:—

'(*da*) "public service vessel" means any mechanically propelled vessel used or adapted to be used for the carriage of passengers for hire or reward;';

(*iii*) for clause (*e*), the following clause shall be substituted, namely:—

'(*e*) "property" includes goods carried in the inland vessel, bridges, landing facilities, navigation marks and infrastructure;';

(*iv*) after clause (*f*), the following clause shall be inserted, namely:—

'(*fa*) "route" means a line of travel which specifies the waterway which may be traversed by a mechanically propelled vessel between one terminal and another;';

(*c*) in section 149, in sub-section (*2*), in clause (*a*),—

(*i*) in sub-clause (*i*),—

(*A*) in item (*c*), for the words "transport vehicle", the words "public service vessel or goods service vessel" shall be substituted;

(*B*) item (*d*) shall be omitted;

(*ii*) in sub-clause (*ii*), for the words "not duly licensed", the words and figures "not holding a certificate granted under Chapter III of the Inland Vessels Act, 1917" shall be substituted; 1 of 1917.

(*d*) in section 158,—

(*i*) for the words "transport vehicle", wherever they occur, the words "public service vessel or goods service vessel" shall be substituted, and such other consequential amendments as the rules of grammar may require shall also be made;

(*ii*) in sub-section (*1*), for clause (*d*), the following clause shall be substituted, namely:—

"(*d*) the certificate of survey granted under section 9 of the Inland Vessels Act, 1917,"; 1 of 1917.

(*e*) in section 161, in sub-section (*3*),—

(*i*) in clause (*a*), for the words "twenty-five thousand rupees", the words "fifty thousand rupees" shall be substituted;

(*ii*) in clause (*b*), for the words "twelve thousand and five hundred rupees", the words "twenty-five thousand rupees" shall be substituted;

(*f*) in section 165, in sub-section (*1*), for the words "Motor Accidents Claims Tribunals", the words "Inland Vessel Accidents Claims Tribunals" shall be substituted.'.

12. After Chapter VIA of the principal Act, the following Chapter shall be inserted, namely:— Insertion of new Chapter VIAB.

'CHAPTER VIAB

PREVENTION AND CONTROL OF POLLUTION AND PROTECTION OF INLAND WATER

54D. In this Chapter, unless the context otherwise requires,— Definitions.

(*a*) "hazardous chemical" or "obnoxious substance" means any chemical or substance, as the case may be, which has been designated as such by rules made under this Chapter;

(*b*) "oil" means any persistent oil such as crude oil, heavy diesel oil, lubricating oil and white oil, whether carried on board a tanker as cargo or fuel;

(*c*) "oily mixture" means a mixture with any oil content.

54E. No oil or oily mixture, hazardous chemical or obnoxious substance from a mechanically propelled vessel shall be discharged in inland water: Prohibition as to discharge of oil, oily mixture, etc., in the inland water.

Provided that nothing in this section shall apply to the discharge of such oil or oily mixture, hazardous chemical or obnoxious substance from a mechanically propelled vessel for the purpose of securing the safety of a mechanically propelled vessel, preventing damage to a mechanically propelled vessel, cargo or saving of life at inland water.

54F. (*1*) The owner or operator of an inland port, at cargo or passenger terminal, as the case may be, shall provide reception facilities to discharge oil, oily mixture, hazardous chemical or obnoxious substance at such inland port, cargo or passenger terminal. Reception facilities at inland port, etc.

(*2*) The owner or operator of an inland port, at cargo or passenger terminal, as the case may be, providing reception facilities at any inland port, a cargo or passenger terminal may make charges for the use of the facilities at such rates and may impose such conditions in respect of use thereof as may be approved by notification in the Official Gazette, by the State Government in respect of the inland port, cargo or passenger terminal.

(*3*) For the purposes of minimizing the pollution already caused, or for preventing the pollution threatened to be caused, the State Government may direct, by order in writing, the owner or operator of an inland port, at cargo or passenger terminal to provide or arrange for the provision of such pollution containment equipments and pollutant removing materials at such inland port, cargo and passenger terminal as may be specified in the order.

54G. (*1*) Any surveyor or any person authorised under this Act in this behalf may, at any reasonable time, enter and inspect any inland port, at cargo or passenger terminal for the purposes of— Power of entry, inspection, etc.

(*a*) ensuring that the provisions of this Chapter are complied with;

(*b*) verifying whether such inland port, at cargo or passenger terminal is provided with the pollution containment equipment and pollutant removing

materials in conformity with the order of the State Government or the rules made under this Chapter; and

(*c*) satisfying himself about the adequacy of the measures taken to prevent pollution.

(*2*) If the surveyor finds that the inland port, at cargo or passenger terminal is not provided with the aforesaid equipment and materials, he shall give notice to the owner or operator of such inland port, cargo or passenger terminal, as the case may be, a notice in writing pointing out the deficiency and also what in his opinion is requisite to remedy the said deficiency.

(*3*) No owner or operator of such inland port, at cargo or passenger terminal, as the case may be, served with the notice under sub-section (*2*), shall proceed with any work at such inland port, cargo or passenger terminal, as the case may be, until he obtains a certificate signed by the surveyor to the effect that the inland port, cargo or passenger terminal, as the case may be, is properly provided with the aforesaid equipment and materials in conformity with the rules made under this Chapter.

Powers of Central Government to make rules for prevention and control of pollution.

54H. (*1*) The Central Government may make rules for the purposes of this Chapter.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may—

(*a*) prescribe the designated hazardous chemical and obnoxious substance under clause (*a*) of section 54D;

(*b*) prescribe fitment of oily mixture treatment equipment on shore and on board in certain cases;

(*c*) prescribe details of reception facilities at inland port, cargo or passenger terminal;

(*d*) prescribe the forms and record books for inland port, cargo or passenger terminal and the manner in which such books shall be maintained, the nature of entries to be made therein, the time and circumstances in which such entries shall be made, the custody and disposal thereof and all other matters relating thereto;

(*e*) any other matter which is to be, or may be, prescribed.'.

Insertion of new sections 62D and 62E.

13. After section 62C of the principal Act, the following sections shall be inserted, namely:—

Punishment for offences relating to pollution.

'62D. Whoever contravenes any provision of Chapter VIAB or of any rule made thereunder, shall be punishable with imprisonment which may extend to one year, or with fine which may extend to fifty thousand rupees, or with both.

Offences by companies.

62E. (*1*) Where an offence under Chapter VIAB has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly:

Provided that nothing in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(*2*) Notwithstanding anything contained in sub-section (*1*), where an offence under Chapter VIAB has been committed by a company, and it is proved that the

offence was committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(*a*) "company" means any body corporate and includes a firm or other association of individuals; and

(*b*) "director", in relation to a firm, means a partner in the firm.'.

Power to remove difficulties.

14. (*1*) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, make such provisions, not inconsistent with the provisions of the principal Act as amended by this Act or this Act as may appear to be necessary or expedient for the purpose of removing the difficulty:

Provided that no order shall be made under this section after the expiry of two years from the date on which this Act comes into force.

(*2*) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

Sd/-

DR. K. N. CHATURVEDI,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

H. D. VYAS
Secretary to Government.

Government Central Press, Gandhinagar.

Extra No. 40 REGISTERED No. G/GNR/2

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PART - VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE & PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 4th December, 2007.

No. RPB/63-2007/Act-36-07/E :- The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 20th September, 2007./Bhadra 29, 1929 (Sake)

The following Act of Parliament has received the assent of the President on the 19th September, 2007, is hereby published for general information :-

THE APPRENTICES (AMENDMENT) ACT, 2007

AN ACT

(Act No. 36 of 2007) [19th September, 2007]

further to amend the Apprentices Act, 1961.

Be it enacted by Parliament in the Fifty-eighth Year of the Republic of India as follows :-

Short title and commencement.

1. *(1)* This Act may be called the Apprentices (Amendment) Act, 2007.

(2) It shall come in to force on such date as the Central Government may, by notification in the Official Gazette, appoint.

52 of 1961.

Insertion of new section 3B.

2. In the Apprentices Act, 1961 (hereinafter referred to as the principal Act), after section 3-A, the following section shall be inserted, namely :-

Reservation of training places for Other Backward Classes in designated trades.

"**3B.** *(1)* In every designated trade, training places shall be reserved by the employer for the Other Backward Classes and where there is more than one designated trade in an establishment, such training places shall be reserved also on the basis of the total number of apprentices in all the designated trades in such establishment.

(2). The number of training places to be reserved for the Other Backward Classes under sub-section *(1)* shall be such as may be prescribed, having regard to the population of the other Backward Classes in the State concerned.".

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Amendment of section 8.

3. In section 8 of the Principal Act, in sub-section *(3)*, for the second proviso, the following proviso shall be substituted, namely :—

"Provided further the Apprenticeship Adviser may, on a representation made to him by an employer and keeping in view the more realistic employment potential, training facilities and other relevant factors, permit him to engage such number of apprentices for a designated trade as is lesser than the number arrived at by the ratio for that trade, not being lesser than fifty per cent of the number so arrived at, subject to the condition that the employer shall engage apprentices in other trades in excess in number equivalent to such shortfall".

Amendment of section 10.

4. In section 10 of the principal Act, for sub-section *(2)*, the following sub-section shall be substituted, namely :-

"*(2)* Related instruction shall be imparted at the cost of emoloyer and the employer shall, when so required, afford all facilities for imparting such instructions.".

Sd/-

Dr. K. N. CHATURVEDI,

Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

H. D. VYAS,

Secretary to Government.

Government Central Press, Gandhinagar.

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PART VI

Acts of Parliament and Ordinances Promulgated by the President.

LEGISLATIVE & PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 4th December, 2007.

No. RPB/64-2007/Act-37--07/E:-The following Act of Parliament is republished for General information:-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 20th September, 2007, Bhadra 29, 1929 (Sake)

The following Act of Parliament has received the assent of the President on the 19th September, 2007, is hereby published for general information:-

THE WAREHOUSING (DEVELOPMENT AND REGULATION) ACT, 2007

AN ACT

(Act No. 37 of 2007) [19th September, 2007]

to make provisions for the development and regulation of warehouses, negotiability of warehouse receipts, establishment of a warehousing development and regulatory authority and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-eighth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (*1*) This Act may be called the Warehousing (Development and Regulation) Act, 2007. Short title, extent and commencement.

(*2*) It extends to the whole of India except the State of Jammu and Kashmir.

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

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Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "accreditation agency" means an agency, whatever be its constitution, registered with the Authority under section 5;

(*b*) "actionable claim" shall have the meaning assigned to it in section 3 of the Transfer of Property Act, 1882; 4 of 1882.

(*c*) "Authority" means the Warehousing Development and Regulatory Authority established under sub-section (*1*) of section 24;

(*d*) "depositor" means a person who delivers goods to the warehouseman for storage;

(*e*) "endorsee" means the person to whom the warehouse receipt is negotiated;

(*f*) "endorsement" means signing on the warehouse receipt by the depositor or holder of the warehouse receipt for the purpose of its negotiation;

(*g*) "electronic form", with reference to information, means any information generated, sent, received or stored in media, magnetic, optical, computer memory, microfilm, computer generated micro fiche or similar device;

(*h*) "fungible goods" means any goods of which any unit is, by nature or usage of trade, the equivalent of any other like unit and are received by a warehouseman as fungible goods;

(*i*) "goods" means all tangible movable goods (other than actionable claims, money and securities), whether fungible or not;

(*j*) "grade" means the quality standard of any goods as notified as grade designation by the Central Government under the Agriculture Produce (Grading and Marking) Act, 1937 or any other law for the time being in force; 1 of 1937.

(*k*) "holder" means,–

(*i*) in relation to a negotiable warehouse receipt, a person who is in possession of such receipt and a right to goods endorsed on it; and

(*ii*) in relation to a non-negotiable warehouse receipt, a person named in it as the person to whom the goods are to be delivered or the assignee of that person;

(*l*) "member" means a member of the Authority and includes its Chairperson;

(*m*) "negotiable warehouse receipt" means a warehouse receipt under which the goods represented therein are deliverable to the depositor or order, the endorsement of which has the effect of transfer of goods represented thereby and the endorsee for which takes a good title;

(*n*) "non-negotiable warehouse receipt" means a warehouse receipt other than a negotiable warehouse receipt;

(*o*) "notification" means a notification published in the Official Gazette;

(*p*) "person" includes a firm, co-operative society or any association or body of persons, whether incorporated or not;

(*q*) "prescribed" means prescribed by rules made under this Act;

(*r*) "regulation" means a regulation made under this Act;

(*s*) "warehouse" means any premises (including any protected place) conforming to all the requirements including manpower specified by the Authority by regulations wherein the warehouseman takes custody of the goods deposited by the depositor and includes a place of storage of goods under controlled conditions of temperature and humidity;

(*t*) "warehousing business" means the Business of maintaining warehouses in storage of goods and issuing negotiable warehouse receipts;

(*u*) "warehouse receipt" means an acknowledgement in writing or in electronic form issued by a warehouseman or his duly authorised representative (including depository by whatever name called) of the receipt for storage of goods not owned by the warehouseman;

(*v*) "warehouseman" means any person who is granted a certificate of registration in respect of any warehouse or warehouses by the Authority or an accreditation agency for carrying on the business of warehousing.

CHAPTER II

REGULATION OF WAREHOUSING BUSINESS

Requirement of registration for warehouses issuing negotiable warehouse receipts.

3. (*1*) No person shall commence or carry on the warehousing business unless he has obtained a registration certificate in respect of the concerned warehouse or warehouses granted by the Authority under this Act:

Provided that a person carrying on the warehousing business immediately before the commencement of this Act shall be allowed to carry on such business, in case he has made an application for registration within thirty days from the date of such commencement:

Provided further that no such registration shall be required for warehouses which do not propose to issue negotiable warehouse receipt.

Explanation.—For the removal of doubts, it is hereby clarified that a warehouse registered under this Act shall also be eligible to issue non-negotiable warehouse receipts.

(*2*) Notwithstanding anything contained in sub-section (*1*), the Authority may, subject to such regulations and guidelines issued by it, authorise any person registered under section 5 as an accreditation agency to issue certificate of accreditation to any person for carrying on the business of warehousing issuing negotiable warehouse receipts.

Registration of warehouses.

4. (*1*) Any person desirous of commencing or carrying on the business of maintaining a warehouse issuing negotiable warehouse receipts may make an application to the Authority for registration in respect of one or more warehouses owned or occupied by him.

(*2*) Every application for registration under sub-section (*1*) shall be in such form and manner and shall be accompanied by such fees as may be prescribed.

(*3*) The Authority may, after such enquiry and subject to such terms and conditions as it thinks fit, grant a certificate of registration of the warehouse in the prescribed form and bearing a registration number to the applicant authorising him to carry on the business of maintaining a warehouse or warehouses and to issue negotiable warehouse receipts.

(*4*) The Authority may not grant a certificate of registration under this section unless it is satisfied that the warehouse in respect of which the application has been made has adequate facilities and safeguards required to warehouse the goods of the nature specified in the application and the applicant satisfies the financial, managerial and other eligibility criteria and competence as may be prescribed:

Provided that no certificate of registration shall be refused to any applicant under this section unless the applicant has been given an opportunity of being heard.

Registration of accreditation agencies.

5. (*1*) The Authority shall, from time to time, determine the number of accreditation agencies as it may authorise to issue certificate of accreditation to warehouses issuing negotiable warehouse receipts.

(*2*) Any person fulfilling the qualifications and other requirements as may be prescribed and desirous of functioning as an accreditation agency under this Act may make an application to the Authority seeking its registration as such under this Act.

(*3*) Every application under sub-section (*2*) shall be in such form and manner and shall be accompanied by such fees and security deposit as may be prescribed.

(*4*) The form in which and the terms and conditions subject to which a certificate of registration as an accreditation agency may be issued under this section shall be such as may be prescribed.

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CHAPTER III

WAREHOUSEMEN

Liabilities of warehousemen.

6. (*1*) A warehouseman is liable for loss of, or injury to, goods caused by his failure to exercise such care and diligence in regard to the goods as a careful and vigilant owner of the goods of the same bulk, quality and value would exercise in the custody of them in similar conditions.

(*2*) In case the goods are damaged or lost in spite of taking all care and precautions by the warehouseman due to unavoidable circumstances, the compensation equal to the value of goods at the time of deposit of the goods shall be payable by the warehouseman.

(*3*) In case the goods are damaged or lost due to the negligence of the warehouseman, then, the compensation shall be equal to value of goods plus the loss of profit to the holder of the receipt.

(*4*) The warehouseman shall not be responsible for any loss, destruction, damage or deterioration of the goods delivered to him for storage attributable to circumstances such as *force majeure*, act of war, act of public enemies and the like.

Duties of warehousemen.

7. (*1*) In the absence of a lawful excuse, a warehouseman shall deliver the goods referred to in a negotiable receipt, to the holder of the receipt on demand made by the holder and on the holder fulfilling all the following conditions, namely:—

(*a*) satisfying the warehouse lien;

(*b*) surrendering the receipt in case of non-negotiable receipt and surrendering the receipt with endorsements in case of negotiable receipt; and

(*c*) acknowledging in writing the receipt of the goods.

(*2*) If a warehouseman refuses or fails to deliver the goods in compliance with the provisions of this section, the burden of proof shall lie on the warehouseman to establish the existence of a lawful excuse for the refusal or failure.

Duties of warehouseman to keep records and accounts of warehouse business.

8. (*1*) Every warehouseman shall keep in a place of safety a complete and accurate set of records and accounts of all transactions pertaining to the operation of a warehouse including records and accounts of all goods received in the warehouse and withdrawn therefrom, of all unissued receipts in his possession, of all receipts issued, returned to, or cancelled, by him.

(*2*) Subject to the provisions of sub-section (*1*), the warehouseman shall keep all the records and accounts of the warehouse business in numerical sequence separate and distinct from the records and accounts of any other business in such form and in such manner and for such period as the Authority may, by regulations, specify.

(*3*) The warehouseman shall make available to the Authority for inspection the records and accounts of the warehouse business at any time as may be desired by the Authority.

Special powers of warehouseman to deal with perishable and hazardous goods.

9. (*1*) If the goods are of a perishable or hazardous nature, or their keeping shall deteriorate greatly in value or damage other property, the warehouseman may give notice that is reasonable and possible under the circumstances to the holder of the receipt for the goods, if the name and address of the holder is known to the warehouseman or if not known to the warehouseman, then, to the depositor, requiring that person to satisfy the lien on the goods and to remove them from the warehouse.

(*2*) If the person to whom a notice under sub-section (*1*) is given fails to satisfy the lien and remove the goods within the time specified in the notice, the warehouseman may sell the goods at public or private sale without advertising.

(*3*) The notice referred to in sub-section (*1*) may be given by sending it by electronic mail, speed post or registered post or telegraphically addressed to the person to whom it is to be given at the last known address of the person and the notice is deemed to be given on the third day of the mailing.

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(*4*) If the warehouseman after a reasonable effort is unable to sell the goods, the warehouseman may dispose of them in such other manner as he deems proper and shall incur no liability for that reason.

(*5*) From the proceeds of any sale or disposal of goods made under this section, the warehouseman shall, after satisfying his lien, hold the balance in trust for the holder of the receipt.

(*6*) No notice shall be necessary if the warehouseman is satisfied on reasonable grounds that in the circumstances of the case giving such notices is likely to cause further prejudice to the goods.

(*7*) If, at any time, the warehouseman is satisfied that the quality of any fungible goods or any part thereof has so deteriorated or is so deteriorating that it is necessary to do so, to protect the holders of negotiable warehouse receipts from loss and time is not sufficient for him to seek their instructions, he may, subject to the regulations in this behalf, dispose off the goods or any part thereof and keep the sale proceeds after satisfying his lien in an escrow account for the benefit of the holders of receipts.

(*8*) In case of disposal of fungible goods under sub-section (*7*), the warehouseman shall, at the choice of the holder of the receipt, either pay the sale proceeds or deliver equivalent goods of the same grade, quality and quantity to him.

(*9*) Any endorsee shall have the right to intimate the address for service recorded with the warehouseman.

Lien of warehouseman on goods.

10. (*1*) Every warehouseman has a lien on goods deposited with him for storage, whether deposited by the owner of the goods or by his authority, or by any person entrusted with the possession of the goods by the owner or by his agent.

(*2*) The lien of the warehouseman is for the amount of the storage and maintenance charges including —

(*a*) all lawful charges for storage and preservation of the goods;

(*b*) all reasonable charges for—

(*i*) any notice required to be given under the provisions of this Act;

(*ii*) notice and advertisement of sale;

(*iii*) sale of goods where default is made in satisfying the lien of the warehouseman; and

(*iv*) compliance of statutory provisions.

(*3*) In case of any endorsement on the face of a negotiable warehouse receipt, by a bank or the warehouseman, such endorsement shall be evidence of a pledge and the pledgee shall have priority over the interest of the holder of the receipt.

(*4*) In case of any pledge referred to in sub-section (*3*), the warehouseman shall not deliver the goods unless the endorsement of the pledge has been duly got cancelled.

(*5*) In case the goods are not taken back within the declared period of storage, the warehouseman shall have the right to recover his charges, selling the goods by public auction, or in any other manner provided in this section any goods upon which he has a lien.

(*6*) The warehouseman shall give a notice in writing of his intention to sell the goods to the person liable as debtor for the charges for which the lien exists or to the owner or person owning the right of property of the goods.

(*7*) The notice under sub-section (*6*) shall —

(*a*) contain all the details about the goods, the location of warehouse, date of deposit, the name of depositor and a statement of lien claimed by the warehouseman for the goods stored in the warehouse; and

(*b*) state that unless the charges are paid within the stipulated time mentioned in the notice, the goods shall be advertised for sale and sold by public auction at a time and place as specified in the notice.

(*8*) If the charges are not paid on or before the day mentioned in the notice, then, unless any other mode of sale is specified by the Authority, by regulations, an advertisement of the sale shall be published in a leading newspaper having circulation in the locality where the sale is to be held as well as where the owner of the goods is located and the sale shall be held not less than fourteen days from the date of first publication of the advertisement.

(*9*) The warehouseman shall, from the proceeds of the sale, satisfy his lien and shall pay over the surplus, if any, to the person entitled thereto.

(*10*) If the surplus is not demanded by the person entitled thereto within ten days after the sale of goods or if there are different claims, the warehouseman shall seek instructions from the Authority and act as per the orders of the Authority.

CHAPTER IV

WAREHOUSE RECEIPTS

Warehouse receipts.

11. (*1*) A warehouse receipt, which may be either in writing or in electronic form, shall be a document of title to goods in writing if it contains all the following particulars, namely:—

(*a*) receipt number;

(*b*) warehouse registration number and date up to which it is valid;

(*c*) name of the warehouse and its complete postal address;

(*d*) name and address of the person by whom or on whose behalf the goods are deposited;

(*e*) date of issue of the warehouse receipt;

(*f*) statement that the goods received shall be delivered to the holder thereof, or that the goods shall be delivered to the order of a named person;

(*g*) rates of storage charges and handling charges;

(*h*) description of the goods or of the packages containing them with particulars of quantity and quality or grade;

(*i*) market value of the goods at the time of deposit;

(*j*) private marks of depositor on the goods or packages, if any, except in the case of fungible goods;

(*k*) name of the insurance company indemnifying for fire, flood, theft, burglary, misappropriation, riots, strikes or terrorism;

(*l*) whether the warehouse receipt is negotiable or non-negotiable;

(*m*) statement of the amount of any advance made and of any liability incurred for which the warehouseman claims his lien;

(*n*) date and signature of the warehouseman or his authorised agent;

(*o*) declared shelf-life of goods;

(*p*) the fact that the warehouseman holds the lien on the goods deposited for his storage and handling charges; and

(*q*) that the receipt would be valid only till the date of expiry of declared shelf-life of the goods for which it is issued.

(*2*) In case a warehouseman wilfully omits from a negotiable warehouse receipt any of the particulars set out in sub-section (*1*), he shall be liable for damages caused by such omission.

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(*3*) No warehouse receipt shall, by reason of the omission only of any of the particulars set-forth in sub-section (*1*), be deemed to be invalid for the purpose of settlement of disputes or claims.

(*4*) Authority may, with the prior approval of the Central Government, add, delete or modify any particulars as specified in sub-clause (*1*) for all or any commodity or class of commodities or for any class of warehouses.

Negotiability of warehouse receipts.

12. (*1*) The words in a negotiable warehouse receipt limiting its negotiability shall be void.

(*2*) A warehouseman who issues a non-negotiable warehouse receipt shall cause to be plainly marked upon its face the words "non-negotiable" or "not negotiable" in English or in the language in which it is issued.

(*3*) In case of non-compliance of sub-section (*2*), a holder of the warehouse receipt who purchases it for valuable consideration believing it to be a negotiable warehouse receipt may, at his option, treat the receipt as vesting in him all rights attaching to a negotiable warehouse receipt and imposing upon the warehouseman the same liabilities which he would have incurred had the receipt been a negotiable warehouse receipt and the warehouseman shall be liable accordingly.

(*4*) A negotiable warehouse receipt shall be valid for delivery till the date of expiry of the declared shelf-life of the goods for which it is issued.

Negotiation of warehouse receipt by delivery.

13. A negotiable warehouse receipt may be negotiated by its delivery if, by the terms of the receipt, the warehouseman undertakes to deliver the goods to the order of a named person, and that person or a subsequent endorsee has endorsed it.

Transfer of negotiable warehouse receipts without endorsement.

14. Where a negotiable receipt is transferred for valuable consideration by delivery, and the endorsement of the transferor is essential for negotiation, the transferee acquires a right against the transferor to compel him to endorse the receipt, unless a contrary intention appears, and the negotiation takes effect as of the time when endorsement is made.

Warrantees on negotiation of warehouse receipt.

15. A person who, for valuable consideration, negotiates a negotiable warehouse receipt by endorsement and delivery, including one who assigns for valuable consideration, a claim secured by a receipt, unless a contrary intention appears, warrants the following:—

(*a*) that the receipt is genuine;

(*b*) that the person has a legal right to negotiate or transfer it;

(*c*) that the person has no knowledge of any fact that would impair the validity of the receipt;

(*d*) that the person has a right to transfer the title to the goods; and

(*e*) that the goods are merchantable or fit for a particular purpose when those warranties would have been implied, if the contract of the parties had been to transfer without a receipt the goods represented by it.

Non-liability of the endorser.

16. The endorsement of a receipt does not make the endorser liable for any failure on the part of the warehouseman or previous endorsers of the receipt to fulfil their respective obligations.

Negotiation of warehouse receipt not impaired by fraud, mistake or duress.

17. The validity of the negotiation of a receipt is not impaired by the fact that—

(*a*) the negotiation was a breach of duty on the part of the person making the negotiation; or

(*b*) the owner of the receipt was induced by fraud, mistake or duress to entrust the possession or custody of the receipt to that person, if the person to whom the

receipt was negotiated or a person to whom the receipt was subsequently negotiated, paid value for it without knowing of the breach of duty, fraud, mistake or duress.

Subsequent negotiation of warehouse receipts.

18. If a person having sold, mortgaged or pledged goods that are in the custody of a warehouseman and for which a negotiable receipt has been issued, continues in possession of the negotiable receipt, the subsequent negotiation of it by that person under any sale or other disposition of the goods to any person receiving the receipt in good faith, for valuable consideration and without notice of the previous sale, mortgage or pledge, has the same effect as if a previous purchaser, mortgagee or pledgee of the goods, as the case may be, had expressly authorised the subsequent negotiation.

Delivery of goods to be made after due charges are paid.

19. When a negotiable warehouse receipt has been issued in respect of any goods, the warehouseman shall not delvier the goods to the depositor or endorsee, until the due charges are paid to the custodian from the date of initial deposit till delivery is made and the warehouse receipt is surrendered for cancellation.

Transfer of non-negotiable receipts.

20. (*1*) A non-negotiable warehouse receipt may be transferred by the holder by delivery to a purchaser or donee of the goods in writing executed by the holder.

(*2*) A peson to whom the goods covered by a non-negotiable warehouse receipt is transferred acquires —

(*a*) the title of the transferor to the goods; and

(*b*) the right to deposit with the warehouseman the receipt or duplicate thereof or to give notice in writing to the warehouseman of the transfer.

(*3*) The transferee shall acquire the benefit of the obligation of the warehouseman to hold goods in storage for him according to the terms of the receipt upon deposit of the transfer of the goods and on giving notice in writing of the transfer and upon the warehouseman having a reasonable opportunity of verifying the transfer.

Conclusiveness of negotiable warehouse receipt.

21. In the hands of a holder who has purchased a negotiable warehouse receipt for valuable consideration, it shall be conclusive evidence of the goods described in it as against the warehouseman or any person claiming through him.

Presumption in certain cases.

22. In a dispute between an endorser of a negotiable warehouse receipt and his endorsee unless it is proved otherwise, it shall be presumed that —

(*a*) the endorsement has been made voluntarily;

(*b*) the endorsement has been made for full consideration;

(*c*) the endorser had full legal title in the goods represented by the receipt; and

(*d*) the endorsement has extinguished all the rights, title and interest of the endorser in the goods.

Issue of duplicate receipt.

23. (*1*) No warehouseman shall issue a warehouse receipt without actually receiving the goods of the quantity, quality or grade and other particulars as may be mentioned in the receipt.

(*2*) No warehouseman shall issue more than one receipt for the same goods deposited by any person:

Provided that in case of a loss or destruction, a duplicate receipt may be issued in such manner as may be specified by the Authority by regulations.

(*3*) If a warehouseman fails to comply with the provisions of sub-section (*2*), he would be liable for all such damages caused by the failure to any person who has transacted on such receipt for valuable consideration, believing it to be an original, even though the transaction is after the delivery of the goods by the warehouseman to the holder of the original receipt.

(*4*) A receipt on the face of which the word "duplicate" is plainly marked is a representation and warranty by the warehouseman that it is an accurate copy of a receipt properly issued and uncancelled on the date of issue of the duplicate warehouse receipt.

CHAPTER V

THE WAREHOUSING DEVELOPMENT AND REGULATORY AUTHORITY

Establishment and incorporation of Authority.

24. (*1*) With effect from such date as the Central Government may, by notification, specify in this behalf, there shall be constituted an authority to be called the Warehousing Development and Regulatory Authority to exercise the powers conferred on, and to perform the functions assigned to it by or under this Act.

(*2*) The Authority shall be a body corporate by the name aforesaid having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, and to contract and shall, by the said name, sue or be sued.

(*3*) The head office of the Authority shall be at New Delhi and the Authority may, with the previous approval of the Central Government, establish offices at other places in India.

Composition of Authority.

25. The Authority shall consist of —

(*a*) a Chairperson; and

(*b*) not more than two other members,

to be appointed by the Central Government from amongst persons of ability, integrity and standing who have wide knowledge and experience in inventory management, insurance, preservation, quality control, agriculture banking, finance, economics, law or administration.

Tenure of office of Chairperson and other members.

26. (*1*) The Chairperson and every other member shall hold office for a term not exceeding five years from the date on which he enters upon his office and shall be eligible for re-appointment:

Provided that no person shall hold office as the Chairperson or other member after he has attained the age of sixty-five years.

(*2*) Notwithstanding anything contained in sub-section (*1*), a member may—

(*a*) relinquish his office by giving in writing to the Central Government notice of not less than three months; or

(*b*) be removed from his office in accordance with the provisions of section 27.

Removal from office.

27. (*1*) The Central Government may remove from office any member who—

(*a*) is, or at any time has been, adjudged as an insolvent; or

(*b*) has become physically or mentally incapable of acting as a member; or

(*c*) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or

(*d*) has acquired such financial or other interest as is likely to affect prejudicially his functions as a member; or

(*e*) has so abused his position as to render his continuation in office detrimental to the public interest.

(*2*) No such member shall be removed under clause (*d*) or clause (*e*) of sub-section (*1*) unless he has been given a reasonable opportunity of being heard in the matter.

Salary, allowances and other terms and conditions of Chairperson and other members.

28. Subject to the rules as may be made in this behalf, the salaries and allowances payable to, and other terms and conditions of service of—

(*a*) the Chairperson shall be the same as that of a Secretary to the Government of India;

(*b*) the other members of the Authority shall be the same as that of Joint Secretaries to the Government of India.

Bar on future employment of members.

29. The Chairperson and the other members shall not, for a period of two years from the date on which they cease to hold office as such, except with the previous approval of the Central Government, accept any employment in any concern in the warehousing sector.

Chairperson to be the chief executive of Authority.

30. The Chairperson shall be the chief executive of the Authority.

Meetings of Authority.

31. (*1*) The Authority shall meet at such times and places and shall observe such rules of procedure in regard to transaction of business at its meetings (including the quorum at such meetings) as may be determined by regulations.

(*2*) The Chairperson, or if, for any reason he is unable to attend a meeting of the Authority, any other member chosen by the members present from amongst themselves at the meeting shall preside at the meeting.

(*3*) All questions which come up before any meeting of the Authority shall be decided by a majority of votes by the members present and voting, and in the event of an equality of votes, the Chairperson, or the person presiding shall have a second or casting vote.

Vacancies, etc., not to invalidate proceedings of Authority.

32. No act or proceeding of the Authority shall be invalid merely by reason of—

(*a*) any vacancy in, or any defect in the constitution of, the Authority; or

(*b*) any defect in the appointment of a person acting as a member of the Authority; or

(*c*) any irregularity in the procedure of the Authority not affecting the merits of the case.

Officers and employees of Authority.

33. (*1*) The Authority may appoint officers and such other employees as it considers necessary for the efficient discharge of its function under this Act.

(*2*) The terms and conditions of service of officers and other employees of the Authority appointed under sub-section (*1*) shall be governed by regulations made under this Act.

Warehousing Advisory Committee.

34. (*1*) The Authority may, by notification, constitute a Committee to be known as the Warehousing Advisory Committee to advise the Authority on matters relating to the making of regulations under section 51 and make recommendations for effective implementation of the provisions of this Act.

(*2*) The Warehousing Advisory Committee shall consist of not more than fifteen members excluding the members of the Authority to represent the interests of commerce, industry, engineering, agriculture, consumers, organisations engaged in warehousing, quality control, preservation and research bodies.

(*3*) Without prejudice to the provisions of sub-section (*1*), the Warehousing Advisory Committee may advise the Authority on such other matters as may be referred to it by the Authority.

CHAPTER VI

POWERS AND FUNCTIONS OF AUTHORITY

Powers and functions of Authority.

35. (*1*) Subject to the provisions of this Act and any other law for the time being in force, the Authority shall have the duty to regulate and ensure implementation of the provisions of this Act and promote orderly growth of the warehousing business.

(*2*) Without prejudice to the generality of the foregoing provisions, the powers and functions of the Authority shall include the following, namely:–

(*a*) to issue to the applicants fulfilling the requirements for warehousemen a certificate of registration in respect of warehouses, or renew, modify, withdraw, suspend or cancel such registration;

(*b*) to regulate the registration and functioning of accreditation agency, renew, modify, withdraw, suspend or cancel such registration, and specify the code of conduct for officials of accreditation agencies for accreditation of the warehouses;

(*c*) to specify the qualifications, code of conduct and practical training for warehousemen and staff engaged in warehousing business;

(*d*) to regulate the process of pledge, creation of charges and enforcement thereof in respect of goods deposited with the warehouse;

(*e*) to promote efficiency in conduct of warehouse business;

(*f*) to make regulations laying down the standards for approval of certifying agencies for grading of goods;

(*g*) to promote professional organisations connected with the warehousing business;

(*h*) to determine the rate of, and levy, the fees and other charges for carrying out the provisions of this Act;

(*i*) to call for information from, undertaking inspection of, conducting enquiries and investigations including audit of the warehouses, accreditation agencies and other organisations connected with the warehousing business;

(*j*) to regulate the rates, advantages, terms and conditions that may be offered by warehousemen in respect of warehousing business;

(*k*) to specify, by regulations, the form and manner in which books of account shall be maintained and statement of accounts shall be rendered by warehousemen;

(*l*) to maintain a panel of arbitrators and to nominate arbitrators from such panel in disputes between warehouses and warehouse receipt holders;

(*m*) to regulate and develop electronic system of holding and transfer of credit balances of fungible goods deposited in the warehouses;

(*n*) to determine the minimum percentage of space to be kept reserved for storage of agricultural commodities in a registered warehouse;

(*o*) to specify the duties and responsibilities of the warehouseman;

(*p*) to exercise such other powers and perform such other functions as may be prescribed.

CHAPTER VII

FINANCE, ACCOUNTS AND AUDIT

Grants by Central Government.

36. The Central Government may, after due appropriation made by Parliament by law in this behalf, make to the Authority grants of such sums of money as the Government may think fit for being utilised for the purposes of this Act.

Constitution of fund.

37. (*1*) There shall be constituted a fund to be called the Warehousing Development and Regulatory Authority Fund and there shall be credited thereto–

(*a*) all Central Government grants, fees and charges received by the Authority;

(*b*) all sums received by the Authority from such other source as may be decided upon by the Central Government;

(*c*) all sums realised by way of penalties under this Act.

(*2*) The fund shall be applied for meeting–

(*a*) the salaries, allowances and other remuneration of the members, officers and other employees of the Authority;

(*b*) the other expenses of the Authority in connection with the discharge of its functions and for the purposes of this Act.

Accounts and audit.

38. (*1*) The Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form and manner as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

(*2*) The accounts of the Authority shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Authority to the Comptroller and Auditor-General.

(*3*) The Comptroller and Auditor-General of India and any other person appointed by him in connection with the audit of the accounts of the Authority shall have the same rights, privileges and authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of the Government accounts and, in particular, shall have the right to demand the production of books of account, connected vouchers and other documents and papers and to inspect any of the offices of the Authority.

(*4*) The accounts of the Authority as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit-report thereon shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before each House of Parliament.

Furnishing of returns, Annual Report, etc., to Central Government.

39. (*1*) The Authority shall furnish to the Central Government at such time and in such form and manner as may be prescribed, or as the Central Government may direct to furnish such returns, statements and other particulars in regard to any proposed or existing programme for the promotion and development of the warehousing industry as the Central Government may, from time to time, require.

(*2*) Without prejudice to the provisions of sub-section (*1*), the Authority shall, within nine months after the close of each financial year, submit to the Central Government an Annual Report giving a true and full account of its activities including the activities for promotion and development of the warehousing business during the previous financial year.

(*3*) Copies of the reports received under sub-section (*2*) shall be laid, as soon as may be after they are received, before each House of Parliament.

CHAPTER VIII

POWERS OF CENTRAL GOVERNMENT

Powers of Central Government to issue directions.

40. (*1*) Without prejudice to the foregoing provisions of this Act, the Authority shall, in exercise of its powers and performance of its functions under this Act, be bound by such directions on questions of policy, other than those relating to technical and administrative matters, as the Central Government may give in writing to it from time to time:

Provided that the Authority shall, as far as practicable, be given an opportunity to express its views before any direction is given under this sub-section.

(*2*) The decision of the Central Government, whether a question is one of policy or not, shall be final.

41. (*1*) If, at any time, the Central Government is of the opinion– Power of Central Government to supersede Authority.

(*a*) that, on account of circumstances beyond the control of the Authority, it is unable to discharge the functions or perform the duties imposed on it by or under the provisions of this Act; or

(*b*) that the Authority has persistently defaulted in complying with any direction given by the Central Government under this Act or in the discharge of the functions or performance of the duties imposed on it by or under the provisions of this Act and as a result of such default the financial position of the Authority or the administration of the Authority has suffered; or

(*c*) that circumstances exist which render it necessary in the public interest so to do, the Central Government may, by notification and for reasons to be specified therein, supersede the Authority for such period not exceeding six months, as may be specified in the notification and nominate a person to look after the functions of the Authority:

Provided that before issuing any such notification, the Central Government shall give a reasonable opportunity to the Authority to make representations against the proposed supersession and shall consider the representation, if any, of the Authority.

(*2*) Upon the publication of a notification under sub-section (*1*) superseding the authority,–

(*a*) the Chairperson and other members shall, as from the date of supersession, be deemed to have vacated their offices;

(*b*) all the powers, functions and duties which may, by or under the provisions of this Act, be exercised or discharged by or on behalf of the Authority shall, until the Authority is reconstituted under sub-section (*3*), be exercised and discharged by the person nominated by the Central Government under clause (*c*) of sub-section (*1*);

(*c*) all properties owned or controlled by the Authority shall, until the Authority is reconstituted under sub-section (*3*), vest in the Central Government.

(*3*) On or before the expiration of the period of supersession specified in the notification issued under sub-section (*1*), the Central Government shall reconstitute the Authority by a fresh appointment of its Chairperson and other members and in such case any person who had vacated his office under clause (*a*) of sub-section (*2*) shall not be deemed to be disqualified for re-appointment.

(*4*) The Central Government shall cause a copy of the notification issued under sub-section (*1*) and a full report of any action to be laid before each House of Parliament at the earliest.

(*5*) Notwithstanding anything contained in any law or in any contract or memorandum or articles of association, on the removal of a person, from office under this section, that person shall not be entitled to claim any compensation for the loss or termination of office.

CHAPTER IX

APPEALS

42. (*1*) Any person aggrieved by an order of the Authority made under this Act, or any rules or the regulations made thereunder may prefer an appeal to such person or authority appointed by the Central Government (hereafter referred to as the Appellate Authority) within sixty days from the date of such order: Appeals to Appellate Authority.

Provided that an appeal may be admitted after the expiry of the said period of sixty days but not beyond a total period of ninety days if the appellant satisfies the Appellate Authority that he had sufficient cause for not preferring the appeal within the said period.

(2) Every appeal made under this section shall be made in such form and manner and shall be accompanied by a copy of the order appealed against and by such fees as may be prescribed.

(3) The procedure for disposing of an appeal shall be such as may be prescribed:

Provided that before disposing of an appeal, the appellant shall be given a reasonable opportunity of being heard.

(4) An appeal filed before the Appellate Authority shall be heard and disposed of as expeditiously as possible and endeavour shall be made to finally dispose of the appeal within a period of ninety days from the date of its filing.

CHAPTER X

OFFENCES AND PENALTIES

Offences and penalties.

43. (1) Any warehouseman knowingly issuing a negotiable warehouse receipt without taking the actual physical delivery of the goods in his warehouse or a warehouseman or an agent or servant of the warehouseman who issues a warehouse receipt without reasonably satisfying himself that the goods for which such warehouse receipt is issued have actually been received or the number, weight or grade of the goods corresponds to the number, weight or grade specified in the warehouse receipt or the goods are under his actual control at the time of issuing such warehouse receipt, commits an offence and shall be punishable with imprisonment for a term which may extend to three years or with fine which may extend to four times the value of the goods or with both.

(2) A warehouseman or an agent or servant of the warehouseman, who knowingly issues a duplicate negotiable warehouse receipt without substantially following the procedure for the issue of a duplicate warehouse receipt, commits an offence and shall be punishable for such offence with imprisonment for a term which may extend to three years, or with fine which may extend to one lakh rupees, or with both.

(3) A warehouseman or an agent or servant of the warehouseman, who, knowingly that the negotiable warehouse receipt in respect of such goods is outstanding and is uncancelled, delivers the goods without obtaining possession of such negotiable warehouse receipt at or before the time of such delivery and thereby causes unlawful loss or gain to any person, commits an offence and shall be punishable for such an offence by imprisonment for a term which may extend to three years or with fine which may extend to one lakh rupees, or with both.

(4) A warehouseman who fails, on surrender of a negotiable warehouse receipt by the depositor or endorsee and payment of all his lawful charges and cancellation of encumbrances endorsed on the receipt, within the declared shelf-life of the goods, as mentioned therein to deliver the goods represented by the receipt commits an offence and shall be punishable for such offence with imprisonment for a term which may extend to three years or with fine which may extend to three times the value of the goods or with both.

(5) Any depositor, who declared as the value of the goods delivered by him for storage with a warehouseman an amount which he does not believe to be the proper value, commits an offence and shall be punishable for such an offence with fine which may extend to one lakh rupees.

Offences by companies.

44. (1) Where an offence under this Chapter is committed by a company, every person, who at the time the offence was committed, was in charge of the company or was responsible for making the deposit, as the case may be, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to punishment if he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent such contravention.

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(2) Notwithstanding anything contained in sub-section (1), where any offence under this Chapter has been committed by a company and it is proved that such an offence has been committed with the consent or connivance of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Explanation.— For the purposes of this section, —

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

Cognizance of offences by courts

45. (1) No court shall take cognizance of any offence punishable under this Act, save on a complaint made by the Authority or by any officer authorised in writing in this behalf by the authority.

(2) No court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence punishable under this Act.

CHAPTER XI

MISCELLANEOUS

Chairperson, members, officers and other employees of Authority to be public servants

46. The Chairperson, members, officers and other employees of Authority and Appellate Authority shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code.

45 of 1860.

Protection of action taken in good faith.

47. No suit, prosecution or other legal proceeding shall lie against the Central Government or any officer of the Central Government or any member, officer or other employee of the Authority for anything which is in good faith done or intended to be done under this Act or the rules or regulations made thereunder:

Provided that nothing in this Act shall exempt any person any suit or other proceedings which might, apart from this Act, be brought against him.

Delegation of powers.

48. The Authority may, by general or special order in writing, delegate to the Chairperson or any other member or officer of the Authority subject to such conditions, if any, as may be specified in the order, such of its powers and functions (excluding the power to make regulations under section 51) under this Act as it may deem necessary.

Exemption from tax on wealth and income.

27 of 1957.
43 of 1961.

49. Notwithstanding anything contained in the Wealth-Tax Act, 1957, the Income-tax Act, 1961 or any other enactment for the time being in force relating to tax on wealth, income, profits or gains, the Authority shall not be liable to pay wealth-tax, income-tax or any other tax in respect of their wealth, income, profits or gains derived.

Power of Central Government to make rules.

50. (1) The Central Government may, by notification, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the form and manner in which an application for obtaining a certificate of registration for commencing or carrying on the business of warehousing issuing negotiable warehouse receipts may be made and the fees which shall accompany such application under sub-section (2) of section 4;

(b) the form in which a certificate for registration of warehouses may be issued under sub-section (3) of section 4;

(c) The financial, managerial and other eligibility criteria and competence which an applicant for registration of warehouses shall satisfy under sub-section (*4*) of section 4;

(*d*) The qualification and other requirements which a person applying for functioning as an accreditation agency shall fulfil under sub-section (*2*) of section 5;

(*e*) the form and manner in which an application for registration as an accreditation agency may be made and the fees which shall accompany such application under sub-section (*3*) of section 5;

(*f*) the form of certificate of registration of accreditation agency under sub-section (*4*) of section 5;

(*g*) the salary and allowances payable to, and the other terms and conditions of service of the Chairperson and other members under section 28;

(*h*) such other powers that may be exercised by the Authority under clause (*p*) of sub-section (*2*) of section 35;

(*i*) the form and manner of maintenance of annual statement of accounts to be maintained by the Authority under sub-section (*1*) of section 38;

(*j*) the form and manner in which and the time within which returns and statements and particulars are to be furnished by the Authority to the Central Government under sub-section (*1*) of section 39;

(*k*) the form and the manner in which an appeal may be made to the Appellate Authority and the fee which shall accompany such appeal under sub-section (*2*) of section 42;

(*l*) the procedure to be followed by the Appellate Authority in disposing of an appeal under sub-section (*3*) of section 42;

(*m*) any other matter which is required to be, or may be, prescribed, or in respect of which provision is to be or may be made by rules.

Power of Authority to make regulations.

51. (*1*) The Authority may, with the previous approval of the Central Government, and in consultation with the Warehousing Advisory Committee, by notification, make regulations consistent with this Act and the rules made thereunder to carry out the provisions of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(*a*) the matters regulating the authorities of accreditation agencies under sub-section (*2*) of section 3;

(*b*) the form and manner and the period for which a warehouseman shall keep the records and accounts of the warehousing business under sub-section (*2*) of section 8;

(*c*) the manner of disposal of goods or any part thereof and the keeping of sale proceeds in an escrow account by the warehouseman under sub-section (*7*) of section 9;

(*d*) the mode of sale under sub-section (*10*) of section 10;

(*e*) the manner of issuance of duplicate warehouse receipt under the proviso to sub-section (*2*) of section 23;

(*f*) the time and places of meetings of the Authority and the procedure to be followed at such meetings including the quorum necessary for the transaction of business under sub-section (*1*) of section 31;

(*g*) the terms and conditions of service of officers and other employees of the Authority under sub-section (*2*) of section 33;

(*h*) the registration and functioning of accreditation agencies, renewal, modification, withdrawal, suspension or cancellation of such registration and the code of conduct for officials of accreditation agencies for accreditation of the warehouses under clause (*b*) of sub-section (*2*) of section 35;

(*i*) the standards for approval of certifying agencies for grading of goods under clause (*f*) of sub-section (*2*) of section 35;

(*j*) the rate of fees and other charges to be levied for carrying out the provisions of this Act under clause (*h*) of sub-section (*2*) of section 35;

(*k*) any other matter which is required to be, or may be, specified by regulations or in respect of which provision is to be or may be made by regulations.

Rules and regulations to be laid before Parliament.

52. Every rule made by the Central Government and every regulation made by the Authority under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

Act to have overriding effect.

53. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for time being in force or in any instrument having effect by virtue of any law other than this Act.

Power to remove difficulties.

54. (*1*) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as appear to it to be necessary for removing the difficulty:

Provided that no such order shall be made under this section after the expiry of three years from the date of commencement of this Act.

(*2*) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

Amendment of Act 2 of 1899.

55. After section 8B of the Stamp Act, 1899, the following section shall be inserted, namely:–

Negotiable warehouse receipts not liable to stamp duty.

"8C. Notwithstanding anything contained in this Act, negotiable warehouse receipts shall not be liable to stamp duty.".

Sd/-

DR. K. N. CHATURVEDI,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

H. D. VYAS
Secretary to Government.

Government Central Press, Gandhinagar.

Extra No. 42 REGISTERED No. G/GNR/2

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Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART - VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE & PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 4th December, 2007.

No. RPB/65-2007/Act-38-07/E :- The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 25th September, 2007, Asvina 3, 1929 (Sake)

The following Act of Parliament has received the assent of the President on the 24th September, 2007, is hereby published for general information :-

THE CIGARETTES AND OTHER TOBACCO PRODUCTS (PROHIBITION OF ADVERTISEMENT AND REGULATION OF TRADE AND COMMERCE, PRODUCTION, SUPPLY AND DISTRIBUTION) AMENDMENT ACT, 2007.

AN ACT

(Act No. 38 of 2007) [24th September, 2007]

to amend the Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and commerce, Production, supply and Distribution) Act, 2003.

BE it enacted by Parliament in the Fifty-eighth Year of the Republic of India as follows ;-

1. This Act may be called the Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Amendment Act, 2007. **Short title.**

Amendment of section 7 of Act 34 of 2003.

2. In the Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production Supply and Distribution) Act, 2003, in section 7 , in sub-section *(1)*, for the words "the specified warning including a pictorial depiction of skull and cross bones and such other warning as may be prescribed," the words "Such specified warning including pictorial warning as may be prescribed" shall be substituted.

Sd/-

Dr. K. N. CHATURVEDI,

Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

H. D. VYAS,

Secretary to Government.

Government Central Press, Gandhinagar.

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THE COMPETITION (AMENDMENT) ACT, 2007

(Act No. 39 of 2007)

AN ACT

[24th September, 2007]

to amend the Competition Act, 2002.

BE it enacted by Parliament in the Fifty-eighth Year of the Republic of India as follows:—

1.(*1*) This Act may be called the Competition (Amendment) Act, 2007. Short title and commencement.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

12 of 2003. 2. In section 2 of the Competition Act, 2002 (hereinafter referred to as the principal Act), after clause (*b*), the following clause shall be inserted, namely:— Amendment of section 2.

'(*ba*) "Appellate Tribunal" means the Competition Appellate Tribunal established under sub-section (*1*) of section 53A.'.

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Amendment of section 4.

3. In section 4 of the principal Act,—

(*i*) for sub-section (*1*), the following sub-section shall be substituted, namely:—

"(*1*) No enterprise or group shall abuse its dominant position.";

(*ii*) in sub-section (*2*),—

(*a*) for the words, brackets and figure "under sub-section (*1*), if an enterprise", the words, brackets and figure "under sub-section (*1*), if an enterprise or a group" shall be substituted;

(*b*) in clause (*c*), after the word "access", the words "in any manner" shall be inserted;

(*iii*) after sub-section (*2*), in the *Explanation*, after clause (*b*), the following clause shall be inserted, namely:—

'(*c*) "group" shall have the same meaning as assigned to it in clause (*b*) of the *Explanation* to section 5.'.

Amendment of section 5.

4. In section 5 of the principal Act, —

(*i*) in clause (*a*),—

(*a*) in sub-clause (*i*), for item (*B*), the following item shall be substituted, namely:—

"(*B*) in India or outside India, in aggregate, the assets of the value of more than five hundred million US dollars, including at least rupees five hundred crores in India, or turnover more than fifteen hundred million US dollars, including at least rupees fifteen hundred crores in India; or";

(*b*) in sub-clause (*ii*), for item (*B*), the following item shall be substituted, namely:—

"(*B*) in India or outside India, in aggregate, the assets of the value of more than two billion US dollars, including at least rupees five hundred crores in India, or turnover more than six billion US dollars, including at least rupees fifteen hundred crores in India; or";

(*ii*) in clause (*b*),—

(*a*) in sub-clause (*i*), for item (*B*), the following item shall be substituted, namely:—

"(*B*) in India or outside India, in aggregate, the assets of the value of more than five hundred million US dollars, including at least rupees five hundred crores in India, or turn over more than fifteen hundred million US dollars, including at least rupees fifteen hundred crores in India; or";

(*b*) in sub-clause (*ii*), for item (*B*), the following item shall be substituted, namely:—

"(*B*) in India or outside India, in aggregate, the assets of the value of more than two billion US dollars, including at least rupees five hundred crores in India, or turn over more than six billion US dollars, including at least rupees fifteen hundred crores in India; or";

(*iii*) in clause (*c*),—

(*a*) in sub-clause (*i*), for item (*B*), the following item shall be substituted, namely:—

"(*B*) in India or outside India, in aggregate, the assets of the value of more than five hundred million US dollars, including at least rupees five hundred crores in India, or turn over more than fifteen hundred million US dollars, including at least rupees fifteen hundred crores in India; or";

(*b*) in sub-clause (*ii*), for item (*B*), the following item shall be substituted, namely:—

"(*B*) in India or outside India, in aggregate, the assets of the value of more than two billion US dollars, including at least rupees five hundred crores in India, or turn over more than six billion US dollars, including at least rupees fifteen hundred crores in India.".

5. In section 6 of the principal Act, in sub-section (*2*),— Amendment of section 6.

(*a*) for the words "may, at his or its option,", the word "shall" shall be substituted;

(*b*) for the words "seven days", the words "thirty days" shall be substituted;

(*c*) after sub-section (*2*), the following sub-section shall be inserted, namely:—

"(*2A*) No combination shall come into effect until two hundred and ten days have passed from the day on which the notice has been given to the Commission under sub-section (*2*) or the Commission has passed orders under section 31, whichever is earlier.".

6. For section 8 of the principal Act, the following section shall be substituted, namely:— Substitution of new section for section 8.

"8. (*1*) The Commission shall consist of a Chairperson and not less than two and not more than six other Members to be appointed by the Central Government. Composition of Commission.

(*2*) The Chairperson and every other Member shall be a person of ability, integrity and standing and who has special knowledge of, and such professional experience of not less than fifteen years in, international trade, economics, business, commerce, law, finance, accountancy, management, industry, public affairs or competition matters, including competition law and policy, which in the opinion of the Central Government, may be useful to the Commission.

(*3*) The Chairperson and other Members shall be whole-time Members.".

7. For section 9 of the principal Act, the following section shall be substituted, namely:— Substitution of new section for section 9.

"9. (*1*) The Chairperson and other Members of the Commission shall be appointed by the Central Government from a panel of names recommended by a Selection Committee consisting of— Selection Committee for Chairperson and Members of Commission.

(*a*) the Chief Justice of India or his nominee .....Chairperson;

(*b*) the Secretary in the Ministry of Corporate Affairs .....Member;

(*c*) the Secretary in the Ministry of Law and Justice ..... Member;

(*d*) two experts of repute who have special knowledge of, and professional experience in international trade, economics, business, commerce, law, finance, accountancy, management, industry, public affairs or competition matters including competition law and policy.....Members.

(*2*) The term of the Selection Committee and the manner of selection of panel of names shall be such as may be prescribed.".

8. In section 10 of the principal Act, in sub-section (*1*), for the proviso, the following proviso shall be substituted, namely:— Amendment of section 10.

"Provided that the Chairperson or other Members shall not hold office as such after he has attained the age of sixty-five years.".

Amendment of section 12.

9. In section 12 of the principal Act, for the words "one year", the words "two years" shall be substituted.

Substitution of new section for section 13.

10. For section 13 of the principal Act, the following section shall be substituted, namely:—

Administrative powers of Chairperson.

"13. The Chairperson shall have the powers of general superintendence, direction and control in respect of all administrative matters of the Commission:

Provided that the Chairperson may delegate such of his powers relating to administrative matters of the Commission, as he may think fit, to any other Member or officer of the Commission.".

Amendment of section 16.

11. In section 16 of the principal Act, —

(*a*) for sub-section (*1*), the following sub-sections shall be substituted, namely: —

"(*1*) The Central Government may, by notification, appoint a Director General for the purposes of assisting the Commission in conducting inquiry into contravention of any of the provisions of this Act and for performing such other functions as are, or may be, provided by or under this Act.

(*1A*) The number of other Additional, Joint, Deputy or Assistant Directors General or such officers or other employees in the office of Director General and the manner of appointment of such Additional, Joint, Deputy or Assistant Directors General or such officers or other employees shall be such as may be prescribed.";

(*b*) in sub-section (*2*), for the words "such other advisers, consultants and officers,", the words "such officers or other employees," shall be substituted;

(*c*) in sub-sections (*3*) and (*4*), for the words "such other advisers, consultants or officers,", the words "such officers or other employees," shall be substituted.

Substitution of new section for section 17.

12. For section 17 of the principal Act, the following section shall be substituted, namely: —

Appointment of Secretary, experts, professionals and officers and other employees of Commission.

"17. (*1*) The Commission may appoint a Secretary and such officers and other employees as it considers necessary for the efficient performance of its functions under this Act.

(*2*) The salaries and allowances payable to and other terms and conditions of service of the Secretary and officers and other employees of the Commission and the number of such officers and other employees shall be such as may be prescribed.

(*3*) The Commission may engage, in accordance with the procedure specified by regulations, such number of experts and professionals of integrity and outstanding ability, who have special knowledge of, and experience in, economics, law, business or such other disciplines related to competition, as it deems necessary to assist the Commission in the discharge of its functions under this Act.".

Amendment of section 19.

13. In section 19 of the principal Act, in sub-section (*1*), in clause (*a*), for the words "receipt of a complaint,", the words "receipt of any information, in such manner and" shall be substituted.

Amendment of section 20.

14. In section 20 of the principal Act, in sub-section (*2*), the words, brackets and figures "or upon receipt of a reference under sub-section (*1*) of section 21" shall be omitted.

15. In section 21 of the principal Act,— Amendment of section 21.

(*a*) in sub-section (*1*), the following proviso shall be inserted, namely:—

"Provided that any statutory authority, may, *suo motu*, make such a reference to the Commission.";

(*b*) for sub-section (*2*), the following sub-section shall be substituted, namely:—

"(*2*) On receipt of a reference under sub-section (*1*), the Commission shall give its opinion, within sixty days of receipt of such reference, to such statutory authority which shall consider the opinion of the Commission and thereafter, give its findings recording reasons therefor on the issues referred to in the said opinion.".

16. After section 21 of the principal Act, the following section shall be inserted, namely:— Insertion of new section 21A.

"21A. (*1*) Where in the course of a proceeding before the Commission an issue is raised by any party that any decision which, the Commission has taken during such proceeding or proposes to take, is or would be contrary to any provision of this Act whose implementation is entrusted to a statutory authority, then the Commission may make a reference in respect of such issue to the statutory authority: Reference by Commission.

Provided that the Commission, may, *suo motu*, make such a reference to the statutory authority.

(*2*) On receipt of a reference under sub-section (*1*), the statutory authority shall give its opinion, within sixty days of receipt of such reference, to the Commission which shall consider the opinion of the statutory authority, and thereafter give its findings recording reasons therefor on the issues referred to in the said opinion.".

17. For section 22 of the principal Act, the following section shall be substituted, namely:— Substitution of new section for section 22.

"22. (*1*) The Commission shall meet at such times and such places, and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be provided by regulations. Meetings of Commission.

(*2*) The Chairperson, if for any reason, is unable to attend a meeting of the Commission, the senior-most Member present at the meeting, shall preside at the meeting.

(*3*) All questions which come up before any meeting of the Commission shall be decided by a majority of the Members present and voting, and in the event of an equality of votes, the Chairperson or in his absence, the Member presiding, shall have a second or casting vote:

Provided that the quorum for such meeting shall be three Members.".

18. Sections 23, 24 and 25 of the principal Act shall be omitted. Omission of sections 23, 24 and 25.

19. For section 26 of the principal Act, the following section shall be substituted, namely:— Substitution of new section for section 26.

"26. (*1*) On receipt of a reference from the Central Government or a State Government or a statutory authority or on its own knowledge or information received under section 19, if the Commission is of the opinion that there exists a *prima facie* case, it shall direct the Director General to cause an investigation to be made into the matter: Procedure for inquiry under section 19.

Provided that if the subject matter of an information received is, in the opinion of the Commission, substantially the same as or has been covered by any previous information received, then the new information may be clubbed with the previous information.

(*2*) Where on receipt of a reference from the Central Government or a State Government or a statutory authority or information received under section 19, the Commission is of the opinion that there exists no *prima facie* case, it shall close the matter forthwith and pass such orders as it deems fit and send a copy of its order to the Central Government or the State Government or the statutory authority or the parties concerned, as the case may be.

(*3*) The Director General shall, on receipt of direction under sub-section (*1*), submit a report on his findings within such period as may be specified by the Commission.

(*4*) The Commission may forward a copy of the report referred to in sub-section (*3*) to the parties concerned:

Provided that in case the investigation is caused to be made based on a reference received from the Central Government or the State Government or the statutory authority, the Commission shall forward a copy of the report referred to in sub-section (*3*) to the Central Government or the State Government or the statutory authority, as the case may be.

(*5*) If the report of the Director General referred to in sub-section (*3*) recommends that there is no contravention of the provisions of this Act, the Commission shall invite objections or suggestions from the Central Government or the State Government or the statutory authority or the parties concerned, as the case may be, on such report of the Director General.

(*6*) If, after consideration of the objections or suggestions referred to in sub-section (*5*), if any, the Commission agrees with the recommendation of the Director General, it shall close the matter forthwith and pass such orders as it deems fit and communicate its order to the Central Government or the State Government or the statutory authority or the parties concerned, as the case may be.

(*7*) If, after consideration of the objections or suggestions referred to in sub-section (*5*), if any, the Commission is of the opinion that further investigation is called for, it may direct further investigation in the matter by the Director General or cause further inquiry to be made in the matter or itself proceed with further inquiry in the matter in accordance with the provisions of this Act.

(*8*) If the report of the Director General referred to in sub-section (*3*) recommends that there is contravention of any of the provisions of this Act, and the Commission is of the opinion that further inquiry is called for, it shall inquire into such contravention in accordance with the provisions of this Act.".

Amendment of section 27.

20. In section 27 of the principal Act,—

(*i*) in clause (*b*), for the proviso, the following proviso shall be substituted, namely:—

"Provided that in case any agreement referred to in section 3 has been entered into by a cartel, the Commission may impose upon each producer, seller, distributor, trader or service provider included in that cartel, a penalty of up to three times of its profit for each year of the continuance of such agreement or ten per cent. of its turnover for each year of the continuance of such agreement, whichever is higher.";

(*ii*) clauses (*c*) and (*f*) shall be omitted;

(*iii*) in clause (*g*), for the word "order", the words "order or issue such directions" shall be substituted;

(*iv*) after clause (*g*), the following proviso shall be inserted, namely:—

"Provided that while passing orders under this section, if the Commission comes to a finding, that an enterprise in contravention to section 3 or section 4 of the Act is a member of a group as defined in clause (*b*) of the *Explanation* to section 5 of the Act, and other members of such a group are also responsible for, or have contributed to, such a contravention, then it may pass orders, under this section, against such members of the group.".

21. In section 28 of the principal Act,— Amendment of section 28.

(*a*) in sub-section (*1*), for the words, brackets, letter and figures "Central Government, on recommendation under clause (*f*) of section 27", the word "Commission" shall be substituted;

(*b*) clause (*d*) of sub-section (*2*) shall be omitted.

22. In section 29 of the principal Act, — Amendment of section 29.

(*a*) in sub-section (*1*), after the words "Where the Commission is of the", the words "*prima facie*" shall be inserted;

(*b*) after sub-section (*1*), the following sub-section shall be inserted, namely:—

"(*1A*) After receipt of the response of the parties to the combination under sub-section (*1*), the Commission may call for a report from the Director General and such report shall be submitted by the Director General within such time as the Commission may direct.";

(*c*) in sub-section (*2*), after the words "parties to the combination", the words, brackets, figure and letter "or the receipt of the report from Director General called under sub-section (*1A*), whichever is later" shall be inserted.

23. For section 30 of the principal Act, the following section shall be substituted, namely: — Substitution of new section for section 30.

"30. Where any person or enterprise has given a notice under sub-section (*2*) of section 6, the Commission shall examine such notice and form its *prima facie* opinion as provided in sub-section (*1*) of section 29 and proceed as per provisions contained in that section.". Procedure in case of notice under sub-section (*2*) of section 6.

24. In section 31 of the principal Act, in sub-section (*11*),— Amendment of section 31.

(*a*) for the words, brackets and figures "ninety working days from the date of publication referred to in sub-section (*2*) of section 29", the words, brackets and figures "two hundred and ten days from the date of notice given to the Commission under sub-section (*2*) of section 6" shall be substituted;

(*b*) in the *Explanation*, for the words "ninety working", the words "two hundred and ten" shall be substituted.

25. In section 32 of the principal Act, after clause (*f*), — Amendment of section 32.

(*a*) after the words "have power to inquire", the words and figures "in accordance with the provisions contained in sections 19, 20, 26, 29 and 30 of the Act" shall be inserted;

(*b*) after the words "relevant market in India", occurring at the end, the words "and pass such orders as it may deem fit in accordance with the provisions of this Act" shall be inserted.

Substitution of new section for section 33.

26. For section 33 of the principal Act, the following section shall be substituted, namely:—

Power to issue interim orders.

"33. Where during an inquiry, the Commission is satisfied that an act in contravention of sub-section (*1*) of section 3 or sub-section (*1*) of section 4 or section 6 has been committed and continues to be committed or that such act is about to be committed, the Commission may, by order, temporarily restrain any party from carrying on such act until the conclusion of such inquiry or until further orders, without giving notice to such party, where it deems it necessary.".

Omission of section 34.

27. Section 34 of the principal Act shall be omitted.

Amendment of section 35.

28. In section 35 of the principal Act, for the words "complainant or defendant", the words "person or an enterprise" shall be substituted.

Substitution of new section for section 36.

29. For section 36 of the principal Act, the following section shall be substituted, namely:—

Power of Commission to regulate its own procedure.

"36. (*1*) In the discharge of its functions, the Commission shall be guided by the principles of natural justice and, subject to the other provisions of this Act and of any rules made by the Central Government, the Commission shall have the powers to regulate its own procedure.

(*2*) The Commission shall have, for the purposes of discharging its functions under this Act, the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely:— 5 of 1908.

(*a*) summoning and enforcing the attendance of any person and examining him on oath;

(*b*) requiring the discovery and production of documents;

(*c*) receiving evidence on affidavit;

(*d*) issuing commissions for the examination of witnesses or documents;

(*e*) requisitioning, subject to the provisions of sections 123 and 124 of the Indian Evidence Act, 1872, any public record or document or copy of such record or document from any office. 1 of 1872.

(*3*) The Commission may call upon such experts, from the fields of economics, commerce, accountancy, international trade or from any other discipline as it deems necessary, to assist the Commission in the conduct of any inquiry by it.

(*4*) The Commission may direct any person—

(*a*) to produce before the Director General or the Secretary or an officer authorised by it, such books or other documents in the custody or under the control of such person so directed as may be specified or described in the direction, being documents relating to any trade, the examination of which may be required for the purposes of this Act;

(*b*) to furnish to the Director General or the Secretary or any other officer authorised by it, as respects the trade or such other information as may be in his possession in relation to the trade carried on by such person as may be required for the purposes of this Act.".

30. Section 37 of the principal Act shall be omitted. Omission of section 37.

31. For section 39 of the principal Act, the following section shall be substituted, namely: — Substitution of new section for section 39.

"39. (*1*) If a person fails to pay any monetary penalty imposed on him under this Act, the Commission shall proceed to recover such penalty in such manner as may be specified by the regulations. Execution of orders of Commission imposing monetary penalty.

(*2*) In a case where the Commission is of the opinion that it would be expedient to recover the penalty imposed under this Act in accordance with the provisions of the Income-tax Act, 1961, it may make a reference to this effect to the concerned income-tax authority under that Act for recovery of the penalty as tax due under the said Act. 43 of 1961.

(*3*) Where a reference has been made by the Commission under sub-section (*2*) for recovery of penalty, the person upon whom the penalty has been imposed shall be deemed to be the assessee in default under the Income-tax Act, 1961 and the provisions contained in sections 221 to 227, 228A, 229, 231 and 232 of the said Act and the Second Schedule to that Act and any rules made thereunder shall, in so far as may be, apply as if the said provisions were the provisions of this Act and referred to sums by way of penalty imposed under this Act instead of to income-tax and sums imposed by way of penalty, fine and interest under the Income-tax Act, 1961 and to the Commission instead of the Assessing Officer. 43 of 1961.

Explanation 1.— Any reference to sub-section (*2*) or sub-section (*6*) of section 220 of the Income-tax Act, 1961, in the said provisions of that Act or the rules made thereunder shall be construed as references to sections 43 to 45 of this Act. 43 of 1961.

Explanation 2.— The Tax Recovery Commissioner and the Tax Recovery Officer referred to in the Income-tax Act, 1961 shall be deemed to be the Tax Recovery Commissioner and the Tax Recovery Officer for the purposes of recovery of sums imposed by way of penalty under this Act and reference made by the Commission under sub-section (*2*) would amount to drawing of a certificate by the Tax Recovery Officer as far as demand relating to penalty under this Act. 43 of 1961.

Explanation 3.— Any reference to appeal in Chapter XVIID and the Second Schedule to the Income-tax Act, 1961, shall be construed as a reference to appeal before the Competition Appellate Tribunal under section 53B of this Act.". 43 of 1961.

32. Section 40 of the principal Act shall be omitted. Omission of section 40.

33. In section 41 of the principal Act, the following *Explanation* shall be inserted, namely:— Amendment of section 41.

'*Explanation.*— For the purposes of this section,—

(*a*) the words "the Central Government" under section 240 of the Companies Act, 1956 shall be construed as "the Commission"; 1 of 1956.

(*b*) the word "Magistrate" under section 240A of the Companies Act, 1956 shall be construed as "the Chief Metropolitan Magistrate, Delhi".'. 1 of 1956.

34. For section 42 of the principal Act, the following section shall be substituted, namely: — Substitution of new section for section 42.

"42. (*1*) The Commission may cause an inquiry to be made into compliance of its orders or directions made in exercise of its powers under the Act. Contravention of orders of Commission.

(*2*) If any person, without reasonable cause, fails to comply with the orders or directions of the Commission issued under sections 27, 28, 31, 32, 33, 42A and 43A of the Act, he shall be punishable with fine which may extend to rupees one lakh for each day during which such non-compliance occurs, subject to a maximum of rupees ten crore, as the Commission may determine.

(*3*) If any person does not comply with the orders or directions issued, or fails to pay the fine imposed under sub-section (*2*), he shall, without prejudice to any proceeding under section 39, be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to rupees twenty-five crore, or with both, as the Chief Metropolitan Magistrate, Delhi may deem fit:

Provided that the Chief Metropolitan Magistrate, Delhi shall not take cognizance of any offence under this section save on a complaint filed by the Commission or any of its officers authorised by it.".

Insertion of new section 42A.

35. After section 42 of the principal Act, the following section shall be inserted, namely:—

Compensation in case of contravention of orders of Commission.

"42A. Without prejudice to the provisions of this Act, any person may make an application to the Appellate Tribunal for an order for the recovery of compensation from any enterprise for any loss or damage shown to have been suffered, by such person as a result of the said enterprise violating directions issued by the Commission or contravening, without any reasonable ground, any decision or order of the Commission issued under sections 27, 28, 31, 32 and 33 or any condition or restriction subject to which any approval, sanction, direction or exemption in relation to any matter has been accorded, given, made or granted under this Act or delaying in carrying out such orders or directions of the Commission.".

Substitution of new section for section 43.

36. For section 43 of the principal Act, the following section shall be substituted, namely:—

Penalty for failure to comply with directions of Commission and Director General.

"43. If any person fails to comply, without reasonable cause, with a direction given by —

(*a*) the Commission under sub-sections (*2*) and (*4*) of section 36; or

(*b*) the Director General while exercising powers referred to in sub-section (*2*) of section 41,

such person shall be punishable with fine which may extend to rupees one lakh for each day during which such failure continues subject to a maximum of rupees one crore, as may be determined by the Commission.".

Insertion of new section 43A.

37. After section 43 of the principal Act, the following section shall be inserted, namely:—

Power to impose penalty for non-furnishing of information on combinations.

"43A. If any person or enterprise who fails to give notice to the Commission under sub-section (*2*) of section 6, the Commission shall impose on such person or enterprise a penalty which may extend to one per cent. of the total turnover or the assets, whichever is higher, of such a combination.".

Amendment of section 45.

38. In section 45 of the principal Act, for sub-section (*1*), the following sub-section shall be substituted, namely:—

"(*1*) Without prejudice to the provisions of section 44, if a person, who furnishes or is required to furnish under this Act any particulars, documents or any information,—

(*a*) makes any statement or furnishes any document which he knows or has reason to believe to be false in any material particular; or

(*b*) omits to state any material fact knowing it to be material; or

(*c*) wilfully alters, suppresses or destroys any document which is required to be furnished as aforesaid,

such person shall be punishable with fine which may extend to rupees one crore as may be determined by the Commission.".

39. In section 46 of the principal Act, — Amendment of section 46.

(*a*) for the first proviso, the following proviso shall be substituted, namely:—

"Provided that lesser penalty shall not be imposed by the Commission in cases where the report of investigation directed under section 26 has been received before making of such disclosure.";

(*b*) in the second proviso, for the word "first", the word "has" shall be substituted;

(*c*) after the second proviso, the following proviso shall be inserted, namely:—

"Provided also that lesser penalty shall not be imposed by the Commission if the person making the disclosure does not continue to cooperate with the Commission till the completion of the proceedings before the Commission.".

40. In section 49 of the principal Act,— Amendment of section 49.

(*a*) for sub-section (*1*), the following sub-section shall be substituted, namely:—

"(*1*) The Central Government may, in formulating a policy on competition (including review of laws related to competition) or on any other matter, and a State Government may, in formulating a policy on competition or on any other matter, as the case may be, make a reference to the Commission for its opinion on possible effect of such policy on competition and on the receipt of such a reference, the Commission shall, within sixty days of making such reference, give its opinion to the Central Government, or the State Government, as the case may be, which may thereafter take further action as it deems fit.";

(*b*) in sub-section (*2*), after the words "Central Government", the words "or the State Government, as the case may be," shall be inserted;

(*c*) in sub-section (*3*), the words ", as may be prescribed," shall be omitted.

41. In section 51 of the principal Act, in sub-section (*1*),— Amendment of section 51.

(*i*) clause (*b*) shall be omitted;

(*ii*) in clause (*d*), for the words, brackets and letters "clauses (*a*) to (*c*)", the words, brackets and letters "clauses (*a*) and (*c*)" shall be substituted.

42. In section 52 of the principal Act, in sub-section (*2*), in the *Explanation*, for the words "Supreme Court", the words "Appellate Tribunal or the Supreme Court" shall be substituted. Amendment of section 52.

43. After Chapter VIII of the principal Act, the following Chapter shall be inserted, namely: — Insertion of new Chapter VIII-A.

'CHAPTER VIII A

COMPETITION APPELLATE TRIBUNAL

53A. (*1*) The Central Government shall, by notification, establish an Appellate Tribunal to be known as Competition Appellate Tribunal,— Establishment of Appellate Tribunal.

(*a*) to hear and dispose of appeals against any direction issued or decision made or order passed by the Commission under sub-sections (*2*) and (*6*) of section 26, section 27, section 28, section 31, section 32, section 33, section 38, section 39, section 43, section 43A, section 44, section 45 or section 46 of this Act;

(*b*) to adjudicate on claim for compensation that may arise from the findings of the Commission or the orders of the Appellate Tribunal in an appeal against any finding of the Commission or under section 42A or under sub-section (*2*) of section 53-Q of this Act, and pass orders for the recovery of compensation under section 53N of this Act.

(*2*) The Headquarter of the Appellate Tribunal shall be at such place as the Central Government may, by notification, specify.

Appeal to Appellate Tribunal.

53B.(*1*) The Central Government or the State Government or a local authority or enterprise or any person, aggrieved by any direction, decision or order referred to in clause (*a*) of section 53A may prefer an appeal to the Appellate Tribunal.

(*2*) Every appeal under sub-section (*1*) shall be filed within a period of sixty days from the date on which a copy of the direction or decision or order made by the Commission is received by the Central Government or the State Government or a local authority or enterprise or any person referred to in that sub-section and it shall be in such form and be accompanied by such fee as may be prescribed:

Provided that the Appellate Tribunal may entertain an appeal after the expiry of the said period of sixty days if it is satisfied that there was sufficient cause for not filing it within that period.

(*3*) On receipt of an appeal under sub-section (*1*), the Appellate Tribunal may, after giving the parties to the appeal, an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or setting aside the direction, decision or order appealed against.

(*4*) The Appellate Tribunal shall send a copy of every order made by it to the Commission and the parties to the appeal.

(*5*) The appeal filed before the Appellate Tribunal under sub-section (*1*) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the appeal within six months from the date of receipt of the appeal.

Composition of Appellate Tribunal.

53C. The Appellate Tribunal shall consist of a Chairperson and not more than two other Members to be appointed by the Central Government.

Qualifications for appointment of Chairperson and Members of Appellate Tribunal.

53D. (*1*) The Chairperson of the Appellate Tribunal shall be a person, who is, or has been a Judge of the Supreme Court or the Chief Justice of a High Court.

(*2*) A Member of the Appellate Tribunal shall be a person of ability, integrity and standing having special knowledge of, and professional experience of not less than twenty-five years in, competition matters, including competition law and policy, international trade, economics, business, commerce, law, finance, accountancy, management, industry, public affairs, administration or in any other matter which in the opinion of the Central Government, may be useful to the Appellate Tribunal.

Selection Committee.

53E. (*1*) The Chairperson and Members of the Appellate Tribunal shall be appointed by the Central Government from a panel of names recommended by a Selection Committee consisting of—

(*a*) the Chief Justice of India or his nominee .....Chairperson;

(*b*) the Secretary in the Ministry of Corporate Affairs .....Member;

(*c*) the Secretary in the Ministry of Law and Justice .....Member.

(*2*) The term of the Selection Committee and the manner of selection of panel of names shall be such as may be prescribed.

Term of office of Chairperson and Members of Appellate Tribunal.

53F. The Chairperson or a Member of the Appellate Tribunal shall hold office as such for a term of five years from the date on which he enters upon his office, and shall be eligible for re-appointment:

Provided that no Chairperson or other Member of the Appellate Tribunal shall hold office as such after he has attained,—

(*a*) in the case of the Chairperson, the age of sixty-eight years;

(*b*) in the case of any other Member of the Appellate Tribunal, the age of sixty-five years.

Terms and conditions of service of Chairperson and Members of Appellate Tribunal.

53G. (*1*) The salaries and allowances and other terms and conditions of service of the Chairperson and other Members of the Appellate Tribunal shall be such as may be prescribed.

(*2*) The salaries, allowances and other terms and conditions of service of the Chairperson and other Members of the Appellate Tribunal shall not be varied to their disadvantage after their appointment.

Vacancies.

53H. If, for any reason other than temporary absence, any vacancy occurs in the office of the Chairperson or a Member of the Appellate Tribunal, the Central Government shall appoint another person in accordance with the provisions of this Act to fill the vacancy and the proceedings may be continued before the Appellate Tribunal from the stage at which the vacancy is filled.

Resignation of Chairperson and Members of Appellate Tribunal.

53-I. The Chairperson or a Member of the Appellate Tribunal may, by notice in writing under his hand addressed to the Central Government, resign his office:

Provided that the Chairperson or a Member of the Appellate Tribunal shall, unless he is permitted by the Central Government to relinquish his office sooner, continue to hold office until the expiry of three months from the date of receipt of such notice or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is the earliest.

Member of Appellate Tribunal to act as its Chairperson in certain cases.

53J. (*1*) In the event of the occurrence of any vacancy in the office of the Chairperson of the Appellate Tribunal by reason of his death or resignation, the senior-most Member of the Appellate Tribunal shall act as the Chairperson of the Appellate Tribunal until the date on which a new Chairperson appointed in accordance with the provisions of this Act to fill such vacancy enters upon his office.

(*2*) When the Chairperson of the Appellate Tribunal is unable to discharge his functions owing to absence, illness or any other cause, the senior-most Member or, as the case may be, such one of the Members of the Appellate Tribunal, as the Central Government may, by notification, authorise in this behalf, shall discharge the functions of the Chairperson until the date on which the Chairperson resumes his duties.

Removal and suspension of Chairperson and Members of Appellate Tribunal.

53K. (*1*) The Central Government may, in consultation with the Chief Justice of India, remove from office the Chairperson or any other Member of the Appellate Tribunal, who—

(*a*) has been adjudged an insolvent; or

(*b*) has engaged at any time, during his term of office, in any paid employment; or

(*c*) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or

(*d*) has become physically or mentally incapable of acting as such Chairperson or other Member of the Appellate Tribunal; or

(*e*) has acquired such financial or other interest as is likely to affect prejudicially his functions as such Chairperson or Member of the Appellate Tribunal; or

(*f*) has so abused his position as to render his continuance in office prejudicial to the public interest.

(*2*) Notwithstanding anything contained in sub-section (*1*), no Chairperson or a Member of the Appellate Tribunal shall be removed from his office on the ground specified in clause (*e*) or clause (*f*) of sub-section (*1*) except by an order made by the Central Government after an inquiry made in this behalf by a Judge of the Supreme Court in which such Chairperson or Member had been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges.

Restriction on employment of Chairperson and other Members of Appellate Tribunal in certain cases.

53L. The Chairperson and other Members of the Appellate Tribunal shall not, for a period of two years from the date on which they cease to hold office, accept any employment in, or connected with the management or administration of, any enterprise which has been a party to a proceeding before the Appellate Tribunal under this Act:

Provided that nothing contained in this section shall apply to any employment under the Central Government or a State Government or local authority or in any statutory authority or any corporation established by or under any Central, State or Provincial Act or a Government company as defined in section 617 of the Companies Act, 1956. 1 of 1956.

Staff of Appellate Tribunal.

53M.(*1*) The Central Government shall provide the Appellate Tribunal with such officers and other employees as it may think fit.

(*2*) The officers and other employees of the Appellate Tribunal shall discharge their functions under the general superintendence and control of the Chairperson of the Appellate Tribunal.

(*3*) The salaries and allowances and other conditions of service of the officers and other employees of the Appellate Tribunal shall be such as may be prescribed.

Awarding compensation.

53N.(*1*) Without prejudice to any other provisions contained in this Act, the Central Government or a State Government or a local authority or any enterprise or any person may make an application to the Appellate Tribunal to adjudicate on claim for compensation that may arise from the findings of the Commission or the orders of the Appellate Tribunal in an appeal against any finding of the Commission or under section 42A or under sub-section (*2*) of section 53-Q of the Act, and to pass an order for the recovery of compensation from any enterprise for any loss or damage shown to have been suffered, by the Central Government or a State Government or a local authority or any enterprise or any person as a result of any contravention of the provisions of Chapter II, having been committed by the enterprise.

(*2*) Every application made under sub-section (*1*) shall be accompanied by the findings of the Commission, if any, and also be accompanied with such fees as may be prescribed.

(*3*) The Appellate Tribunal may, after an inquiry made into the allegations mentioned in the application made under sub-section (*1*), pass an order directing the enterprise to make payment to the applicant, of the amount determined by it as realisable from the enterprise as compensation for the loss or damage caused to the applicant as a result of any contravention of the provisions of Chapter II having been committed by such enterprise:

Provided that the Appellate Tribunal may obtain the recommendations of the Commission before passing an order of compensation.

(*4*) Where any loss or damage referred to in sub-section (*1*) is caused to numerous persons having the same interest, one or more of such persons may, with the permission of the Appellate Tribunal, make an application under that sub-section for and on behalf of, or for the benefit of, the persons so interested, and thereupon, the provisions of rule 8 of Order 1 of the First Schedule to the Code of Civil Procedure, 1908, shall apply subject to the modification that every reference therein to a suit or decree shall be construed as a reference to the application before the Appellate Tribunal and the order of the Appellate Tribunal thereon.

5 of 1908.

Explanation.— For the removal of doubts, it is hereby declared that –

(*a*) an application may be made for compensation before the Appellate Tribunal only after either the Commission or the Appellate Tribunal on appeal under clause (*a*) of sub-section (*1*) of section 53A of the Act, has determined in a proceeding before it that violation of the provisions of the Act has taken place, or if provisions of section 42A or sub-section (*2*) of section 53Q of the Act are attracted.

(*b*) enquiry to be conducted under sub-section (*3*) shall be for the purpose of determining the eligibility and quantum of compensation due to a person applying for the same, and not for examining afresh the findings of the Commission or the Appellate Tribunal on whether any violation of the Act has taken place.

Procedure and powers of Appellate Tribunal.

53-O. (*1*) The Appellate Tribunal shall not be bound by the procedure laid down in the Code of Civil Procedure, 1908, but shall be guided by the principles of natural justice and, subject to the other provisions of this Act and of any rules made by the Central Government, the Appellate Tribunal shall have power to regulate its own procedure including the places at which they shall have their sittings.

5 of 1908.

(*2*) The Appellate Tribunal shall have, for the purposes of discharging its functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 while trying a suit in respect of the following matters, namely:—

5 of 1908.

(*a*) summoning and enforcing the attendance of any person and examining him on oath;

(*b*) requiring the discovery and production of documents;

(*c*) receiving evidence on affidavits;

(*d*) subject to the provisions of sections 123 and 124 of the Indian Evidence Act, 1872, requisitioning any public record or document or copy of such record or document from any office;

1 of 1872.

(*e*) issuing commissions for the examination of witnesses or documents;

(*f*) reviewing its decisions;

(*g*) dismissing a representation for default or deciding it *ex parte*;

(*h*) setting aside any order of dismissal of any representation for default or any order passed by it *ex parte*;

(*i*) any other matter which may be prescribed.

(*3*) Every proceedings before the Appellate Tribunal shall be deemed to be judicial proceedings within the meaning of sections 193 and 228, and for the purposes of section 196, of the Indian Penal Code and the Appellate Tribunal shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

45 of 1860.

2 of 1974.

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Execution of orders of Appellate Tribunal.

53P.(*1*) Every order made by the Appellate Tribunal shall be enforced by it in the same manner as if it were a decree made by a court in a suit pending therein, and it shall be lawful for the Appellate Tribunal to send, in case of its inability to execute such order, to the court within the local limits of whose jurisdiction,—

(*a*) in the case of an order against a company, the registered office of the company is situated; or

(*b*) in the case of an order against any other person, place where the person concerned voluntarily resides or carries on business or personally works for gain, is situated.

(*2*) Notwithstanding anything contained in sub-section (*1*), the Appellate Tribunal may transmit any order made by it to a civil court having local jurisdiction and such civil court shall execute the order as if it were a decree made by that court.

Contravention of orders of Appellate Tribunal.

53-Q.(*1*) Without prejudice to the provisions of this Act, if any person contravenes, without any reasonable ground, any order of the Appellate Tribunal, he shall be liable for a penalty of not exceeding rupees one crore or imprisonment for a term up to three years or with both as the Chief Metropolitan Magistrate, Delhi may deem fit:

Provided that the Chief Metropolitan Magistrate, Delhi shall not take cognizance of any offence punishable under this sub-section, save on a complaint made by an officer authorised by the Appellate Tribunal.

(*2*) Without prejudice to the provisions of this Act, any person may make an application to the Appellate Tribunal for an order for the recovery of compensation from any enterprise for any loss or damage shown to have been suffered, by such person as a result of the said enterprise contravening, without any reasonable ground, any order of the Appellate Tribunal or delaying in carrying out such orders of the Appellate Tribunal.

Vacancy in Appellate Tribunal not to invalidate acts or proceedings.

53R. No act or proceeding of the Appellate Tribunal shall be questioned or shall be invalid merely on the ground of existence of any vacancy or defect in the constitution of the Appellate Tribunal.

Right to legal representation.

53-S.(*1*) A person preferring an appeal to the Appellate Tribunal may either appear in person or authorise one or more chartered accountants or company secretaries or cost accountants or legal practitioners or any of its officers to present his or its case before the Appellate Tribunal.

(*2*) The Central Government or a State Government or a local authority or any enterprise preferring an appeal to the Appellate Tribunal may authorise one or more chartered accountants or company secretaries or cost accountants or legal practitioners or any of its officers to act as presenting officers and every person so authorised may present the case with respect to any appeal before the Appellate Tribunal.

(*3*) The Commission may authorise one or more chartered accountants or company secretaries or cost accountants or legal practitioners or any of its officers to act as presenting officers and every person so authorised may present the case with respect to any appeal before the Appellate Tribunal.

Explanation.— The expressions "chartered accountant" or "company secretary" or "cost accountant" or "legal practitioner" shall have the meanings respectively assigned to them in the *Explanation* to section 35.

Appeal to Supreme Court.

53T. The Central Government or any State Government or the Commission or any statutory authority or any local authority or any enterprise or any person aggrieved by any decision or order of the Appellate Tribunal may file an appeal to the

Supreme Court within sixty days from the date of communication of the decision or order of the Appellate Tribunal to them:

Provided that the Supreme Court may, if it is satisfied that the applicant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed after the expiry of the said period of sixty days.

Power to Punish for contempt.

70 of 1971.

53U. The Appellate Tribunal shall have, and exercise, the same jurisdiction, powers and authority in respect of contempt of itself as a High Court has and may exercise and, for this purpose, the provisions of the Contempt of Courts Act, 1971 shall have effect subject to modifications that, —

(*a*) the reference therein to a High Court shall be construed as including a reference to the Appellate Tribunal;

(*b*) the references to the Advocate-General in section 15 of the said Act shall be construed as a reference to such Law Officer as the Central Government may, by notification, specify in this behalf.

Amendment of section 57.

44. In section 57 of the principal Act, for the words "the Commission", the words "the Commission or the Appellate Tribunal" shall be substituted.

Substitution of new section for section 58.

45. For section 58 of the principal Act, the following section shall be substituted, namely:—

Chairperson, Members, Director General, Secretary, officers and other employees, etc., to be public servants.

45 of 1860.

"58. The Chairperson and other Members and the Director General, Additional, Joint, Deputy or Assistant Directors General and Secretary and officers and other employees of the Commission and the Chairperson, Members, officers and other employees of the Appellate Tribunal shall be deemed, while acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code.".

Amendment of section 59.

46. In section 59 of the principal Act, for the words "the Registrar or officers or other employees of the Commission", the words "the Secretary or officers or other employees of the Commission or the Chairperson, Members, officers and other employees of the Appellate Tribunal" shall be substituted.

Amendment of section 61.

47. In section 61 of the principal Act, for the word "Commission", the words "Commission or the Appellate Tribunal" shall be substituted.

Amendment of section 63.

48. In section 63 of the principal Act, in sub-section (*2*), —

(*i*) for clause (*a*), the following clause shall be substituted, namely:—

"(*a*) the term of the Selection Committee and the manner of selection of panel of names under sub-section (*2*) of section 9;";

(*ii*) clause (*c*) shall be omitted;

(*iii*) after clause (*d*), the following clause shall be inserted, namely: —

"(*da*) the number of Additional, Joint, Deputy or Assistant Directors General or such officers or other employees in the office of Director General and the manner in which such Additional, Joint, Deputy or Assistant Directors General or such officers or other employees may be appointed under sub-section (*1A*) of section 16;";

(*iv*) in clauses (*e*) and (*f*), for the words "such other advisers, consultants or officers", the words "such officers or other employees" shall be substituted;

(*v*) in clause (*g*), for the word "Registrar", the word "Secretary" shall be substituted;

(*vi*) clauses (*h*), (*i*) and (*j*) shall be omitted;

(*vii*) after clause (*m*), the following clauses shall be inserted, namely: —

"(*ma*) the form in which an appeal may be filed before the Appellate Tribunal under sub-section (*2*) of section 53B and the fees payable in respect of such appeal;

(*mb*) the term of the Selection Committee and the manner of selection of panel of names under sub-section (*2*) of section 53E;

(*mc*) the salaries and allowances and other terms and conditions of service of the Chairperson and other Members of the Appellate Tribunal under sub-section (*1*) of section 53G;

(*md*) the salaries and allowances and other conditions of service of the officers and other employees of the Appellate Tribunal under sub-section (*3*) of section 53M;

(*me*) the fee which shall be accompanied with every application made under sub-section (*2*) of section 53N;

(*mf*) the other matters under clause (*i*) of sub-section (*2*) of section 53-O in respect of which the Appellate Tribunal shall have powers under the Code of Civil Procedure, 1908 while trying a suit;"; 5 of 1908.

(*viii*) for clause (*n*), the following clause shall be substituted, namely:—

"(*n*) the manner in which the monies transferred to the Competition Commission of India or the Appellate Tribunal shall be dealt with by the Commission or the Appellate Tribunal, as the case may be, under the fourth proviso to sub-section (*2*) of section 66.".

Amendment of section 64.

49. In section 64 of the principal Act, in sub-section (*2*), for clauses (*d*) and (*e*), the following clauses shall be substituted, namely:—

"(*d*) the procedures to be followed for engaging the experts and professionals under sub-section (*3*) of section 17;

(*e*) the fee which may be determined under clause (*a*) of sub-section (*1*) of section 19;

(*f*) the rules of procedure in regard to the transaction of business at the meetings of the Commission under sub-section (*1*) of section 22;

(*g*) the manner in which penalty shall be recovered under sub-section (*1*) of section 39;

(*h*) any other matter in respect of which provision is to be, or may be, made by regulations.".

Amendment of section 66.

50. In section 66 of the principal Act,—

(*a*) for sub-section (*1*), the following sub-sections shall be substituted, namely:—

(*1*) The Monopolies and Restrictive Trade Practices Act, 1969 is hereby repealed and the Monopolies and Restrictive Trade Practices Commission established under sub-section (*1*) of section 5 of the said Act (hereafter referred to as the repealed Act) shall stand dissolved: 54 of 1969.

Provided that, notwithstanding anything contained in this sub-section, the Monopolies and Restrictive Trade Practices Commission established under

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sub-section (*1*) of section 5 of the repealed Act may continue to exercise jurisdiction and power under the repealed Act for a period of two years from the date of the commencement of this Act in respect of all cases or proceedings (including complaints received by it or references or applications made to it) filed before the commencement of this Act as if the Monopolies and Restrictive Trade Practices Act, 1969 had not been repealed and all the provisions of the said Act so repealed shall *mutatis mutandis* apply to such cases or proceedings or complaints or references or applications and to all other matters.

54 of 1969.

Explanation.—For the removal of doubts, it is hereby declared that nothing in this proviso shall confer any jurisdiction or power upon the Monopolies and Restrictive Trade Practices Commission to decide or adjudicate any case or proceeding arising under the Monopolies and Restrictive Trade Practices Act, 1969 on or after the commencement of this Act.

54 of 1969.

(*1A*) The repeal of the Monopolies and Restrictive Trade Practices Act, 1969 shall, however, not affect,—

54 of 1969.

(*a*) the previous operation of the Act so repealed or anything duly done or suffered thereunder; or

(*b*) any right, privilege, obligation or liability acquired, accrued or incurred under the Act so repealed; or

(*c*) any penalty, confiscation or punishment incurred in respect of any contravention under the Act so repealed; or

(*d*) any proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, confiscation or punishment as aforesaid, and any such proceeding or remedy may be instituted, continued or enforced, and any such penalty, confiscation or punishment may be imposed or made as if that Act had not been repealed.".

(*b*) in sub-section (*2*), —

(*i*) for the second proviso, the following proviso shall be substituted, namely:—

"Provided further that the Director General of Investigation and Registration, Additional, Joint, Deputy or Assistant Directors General of Investigation and Registration or any officer or other employee who has been, immediately before the dissolution of the Monopolies and Restrictive Trade Practices Commission employed on regular basis by the Monopolies and Restrictive Trade Practices Commission, shall become, on and from such dissolution, the officer and employee, respectively, of the Competition Commission of India or the Appellate Tribunal, in such manner as may be specified by the Central Government, with the same rights and privileges as to pension, gratuity and other like matters as would have been admissible to him if the rights in relation to such Monopolies and Restrictive Trade Practices Commission had not been transferred to, and vested in, the Competition Commission of India or the Appellate Tribunal, as the case may be, and shall continue to do so unless and until his employment in the Competition Commission of India or the Appellate Tribunal, as the case may be, is duly terminated or until his remuneration, terms and conditions of employment are duly altered by the Competition Commission of India or the Appellate Tribunal, as the case may be;";

(*ii*) in the third proviso, for the words "the Central Government", the words "the Competition Commission of India or the Appellate Tribunal, as the case may be," shall be substituted;

(*iii*) in the fourth proviso,—

(*A*) for the words "the Central Government shall, out of the monies standing", the words "the Competition Commission of India or the Appellate Tribunal, as the case may be, shall, out of the monies standing" shall be substituted;

(*B*) for the portion beginning with the words "the Central Government and such monies" and ending with the words "as may be prescribed" the following shall be substituted, namely:—

"the Competition Commission of India or the Appellate Tribunal, as the case may be, and such monies which stand so transferred shall be dealt with by the said Commission or the Tribunal, as the case may be, in such manner as may be prescribed";

(*c*) for sub-section (*3*), the following sub-section shall be substituted, namely:—

"(*3*) All cases pertaining to monopolistic trade practices or restrictive trade practices pending (including such cases, in which any unfair trade practice has also been alleged), before the Monopolies and Restrictive Trade Practices Commission shall, after the expiry of two years referred to in the proviso to sub-section (*1*), stand transferred to the Appellate Tribunal and shall be adjudicated by the Appellate Tribunal in accordance with the provisions of the repealed Act as if that Act had not been repealed.".

(*d*) in sub-section (*4*), for the words "on or before the commencement of this Act shall, on such commencement", the words, brackets and figure "on or before the expiry of two years referred to in the proviso to sub-section (*1*)," shall be substituted;

(*e*) for sub-section (*5*), the following sub-section shall be substituted, namely:—

"(*5*) All cases pertaining to unfair trade practices referred to in clause (*x*) of sub-section (*1*) of section 36A of the Monopolies and Restrictive Trade Practices Act, 1969 and pending before the Monopolies and Restrictive Trade Practices Commission shall, after the expiry of two years referred to in the proviso to sub-section (*1*), stand transferred to the Appellate Tribunal and the Appellate Tribunal shall dispose of such cases as if they were cases filed under that Act.". 54 of 1969.

Sd/-

DR. K. N. CHATURVEDI,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

H. D. VYAS
Secretary to Government.

Government Central Press, Gandhinagar.

Extra No. 44 REGISTERED No. G/GNR/2

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Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART - VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE & PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 4th December, 2007.

No.RPB/67-2007/Act-40-07/E:- The following Act of Parliament is republished for general information: -

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 25th September, 2007, Asvina 3, 1929 (Sake)

The following Act of Parliament has received the assent of the President on the 24th September, 2007, is hereby published for general information:-

THE MERCHANT SHIPPING (AMENDMENT), ACT. 2007

An Act

(Act No. 40 of 2007) [24th September, 2007.]

further to amend the Merchant Shipping Act, 1958 and the Indian Ports Act, 1908

Be it enacted by Parliament in the Fifty-eighth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title and commencement.

1. (*1*) This Act may be called the Merchant Shipping (Amendment) Act, 2007.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for different provisions of this Act.

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CHAPTER II

AMENDMENT OF THE MERCHANT SHIPPING ACT, 1958

Amendment of long title.

2. In the Merchant Shipping Act, 1958 (hereinafter referred to as the principal Act), in the long title, for the word "registration", the words "registration, certification, safety and security" shall be substituted. **44 of 1958.**

Amendment of section 3.

3. In section 3 of the principal Act, after clause *(44)*, the following clause shall be inserted, namely:—

'*(44A)* "security" means maritime security and includes any measure to protect ports or ships or any person or thing relating directly or indirectly to maritime navigation,—

(*i*) against terrorism, sabotage, stowaways, illegal migrants, asylum seekers, piracy, armed robbery, seizure or pilferage; and

(*ii*) against any other hostile act or influence which threatens the security in the maritime transport sector,

employed by the owners or operators or persons in charge of the vessels or management of port facilities, offshore installations and other marine organisations or establishments;'.

Amendment of section 31.

4. In section 31 of the principal Act, after clause (a), the following clause shall be inserted, namely:—

"(aa) the ship identification number;".

Insertion of new section 99A.

5. After section 99 of the principal Act, the following section shall be inserted, namely:—

Prohibition of engagement of seafarer without seafarer's identity document.

'99A. *(1)* No person shall engage or carry to sea any seafarer in any ship, unless the seafarer is in possession of seafarer's identity document.

(*2*) The seafarer's identity document under sub-section (1) shall be issued in such form and manner and on payment of such fees as may be prescribed.

Explanation.—For the purposes of this section, "seafarer" means any person who is employed or engaged or works in any capacity on board a sea going ship ordinarily engaged in maritime navigation, other than a ship of war.'.

Insertion of new Part 1XB.

6. After Part IXA of the principal Act, the following Part shall be inserted, namely:—

'PART IXB

SECURITY OF SHIPS AND PORT FACILITIES

Application.

344J. (*1*) Subject to sub-section *(2)*, this Part shall apply to—

(*a*) the following types of ships engaged on international voyages, namely:—

(*i*) passenger ships including high speed passenger craft;

(*ii*) cargo ships including high speed craft of five hundred gross tonnage and above;

(*iii*) mobile offshore drilling units:

Provided that the Central Government may extend the application of this Part to those ships which are exclusively engaged on coastal voyages;

(*b*) the port facilities serving ships referred to in clause *(a)*:

Provided that the Central Government may, after taking decision, on the basis of port facility security assessment having carried out under this Part, extend the application of this Part to those port facilities which, although used primarily by ships not engaged on international voyages, are occasionally required, to serve ships arriving or departing on international voyages.

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(*2*) This Part shall not apply to war ships, naval auxiliaries, or other ships owned or operated by the Central Government and used only for non-commercial service by that Government.

Definitions.

344K. In this Part, unless the context otherwise requires,—

(*a*) "company" means the owner of the ship who, or any organisation which has assumed the responsibility of operation of the ship from the owner of such ship and who or which has agreed to take over all the duties and responsibilities imposed by the International Safety Management Code;

(*b*) "declaration of security" means an agreement between ships or a ship and a port facility specifying therein the security measures to be complied with;

(*c*) "designated authority" means such authority as the Central Government may, by notification in the Official Gazette, specify;

(*d*) "International Ship and Port Facility Security Code" means the code for the security of ships and port facilities provided in the Safety Convention;

(*e*) "port facility" means any location or area including anchorages or waiting berths or approaches from seaward and determined by the Central Government or the designated authority, as the case may be, where interface between ships or a ship and a port takes place;

(*f*) "recognised security organisation" means any organisation, company, firm or body of individuals having expertise in matters relating to security and knowledge of ship, and port operations, which or who are authorised by the Central Government by notification in the Official Gazette, to carry out assessment or verification or approval or certification required by this Part or by the International Ship and Port Facility Code;

(*g*) "security level" means the qualification of the degree of risk associated with the threat or an unlawful act against a ship, or against a port facility or any other area connected therewith;

(h) words and expressions used in this Part but not defined in this Part shall have the respective meanings as assigned to them in the Safety Convention.

Ship identification number.

344L. (1) The Central Government or the designated authority, as the case may be, shall provide every Indian ship of one hundred gross tonnage and above and every Indian cargo ship of three hundred gross tonnage and above, a ship identification number, which conforms to the relevant scheme formulated by the International Maritime Organisation.

(2) All the certificates issued under this Act and all certified copies thereof shall bear the ship identification number.

Security measures.

344M. (1) The Central Government or the designated authority, as the case may be, shall set security levels taking into consideration human element such as shore leave and provide information thereof to all the Indian ships, as may be prescribed.

(2) The Central Government or the designated authority, as the case may be, shall set security levels and provide information thereof to port facilities within India and to every ship prior to entering an Indian port or while in a port within India, as may be prescribed:

Provided that the Central Government may authorise any recognised security organisation to carry out any of the security measures under this section, on behalf of it, with such conditions as may be prescribed.

Port facility assessment.

344N. The Central Government shall carry out port facility assessment in the manner as may be prescribed.

Obligations of companies, etc.

3440. Every company, ship or port facility shall comply with the relevant requirements under the Safety Convention and the International Code for the Security of Ships and Port Facility.

Obligations of port facility.

344P. Every port facility in India shall comply with the requirement of this Part or the rules made thereunder.

International Ship Security Certificate.

344Q. The Central Government or the designated authority or the authorised person, as the case may be, shall issue every Indian ship to which this Part applies, an International Ship Security Certificate or an Interim International Ship Security Certificate, as the case may be, in the form and manner as may be prescribed.

Ship Security Alert System.

344R. Every Indian ship shall be provided with such Ship Security Alert System, as may be prescribed.

Control measures.

344S. Every ship to which this Part applies shall be subject to such control measures as may be prescribed.

Power to make rules.

344T. (1) The Central Government may, having regard to the provisions of the Safety Convention, make rules to carry out the purposes of this Part.

(2) In particular, and without prejudice to the generality of the provisions of sub-section (1), such rules may provide—

(a) for alternative or equivalent security levels;

(b) fee to be levied for any service rendered;

(c) any other matter which by this Part is to be, or may be, prescribed.'.

CHAPTER III

AMENDMENT OF THE INDIAN PORTS ACT, 1908

Insertion of new section 68D of Act 15 of 1908.

7. After section 68C of the Indian Ports Act, 1908, the following section shall be inserted, namely:—

Maritime security,

'68D. A port facility in India shall comply with all the requirements contained in Chapter IXB of the Merchant Shipping Act, 1958 or the rules made thereunder so far as they are not inconsistent with the provisions of this Act. **44 of 1958 .**

Explanation.—For the purposes of this section, the expression "port facility" shall have the same meaning as assigned to it in Part IXB of the Merchant Shipping Act 1958.". **44 of 1958 .**

Sd/-

DR. K. N. CHATURVEDI,

Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

H.D.VYAS,

Secretary to Government.

Government Central Press, Gandhinagar.

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PART VI

Acts of Parliament and Ordinances Promulgated by the President.

LEGISLATIVE & PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 4th December, 2007.

No. RPE/68-2007/Act-41--07/E.--The following Act of Parliament is republished for General information:-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 1st October, 2007, Asvina 9, 1929 (Saka)

The following Act of Parliament has received the assent of the President on the 29th September, 2007, is hereby published for general information:-

THE CARRIAGE BY ROAD ACT, 2007

AN ACT

(Act No. 41 of 2007) [29th September, 2007]

to provide for the regulation of common carriers, limiting their liability and declaration of value of goods delivered to them to determine their liability for loss of, or damage to, such goods occasioned by the negligence or criminal acts of themselves, their servants or agents and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-eighth Year of the Republic of India as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Carriage by Road Act, 2007.

(*2*) It extends to the whole of India, except the State of Jammu and Kashmir.

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

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Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "common carrier" means a person engaged in the business of collecting, storing, forwarding or distributing goods to be carried by goods carriages under a goods receipt or transporting for hire of goods from place to place by motorised transport on road, for all persons undiscriminatingly and includes a goods booking company, contractor, agent, broker and courier agency engaged in the door-to-door transportation of documents, goods or articles utilising the services of a person, either directly or indirectly, to carry or accompany such documents, goods or articles, but does not include the Government;

(*b*) "consignee" means the person named as consignee in the goods forwarding note;

(*c*) "consignment" means documents, goods or articles entrusted by the consignor to the common carrier for carriage, the description or details of which are given in the goods forwarding note;

(*d*) "consignor" means a person, named as consignor in the goods forwarding note, by whom or on whose behalf the documents, goods or articles covered by such forwarding note are entrusted to the common carrier for carriage thereof;

(*e*) "goods" includes—

(*i*) containers, pallets or similar articles of transport used to consolidate goods; and

(*ii*) animals or livestock;

(*f*) "goods forwarding note" means the document executed under section 8;

(*g*) "goods receipt" means the receipt issued under section 9;

(*h*) "person" includes any association or body of persons, whether incorporated or not, a road transport booking company, contractor and an agent or a broker carrying on the business of a common carrier;

(*i*) "prescribed" means prescribed by rules made under this Act;

(*j*) "registering authority" means a State Transport Authority or a Regional Transport Authority constituted under section 68 of the Motor Vehicles Act, 1988; 59 of 1988.

(*k*) "registration" means the registration granted or renewed under sub-section (*5*) of section 4.

Persons not to engage in business of common carrier without registration.

3. (*1*) No person shall engage in the business of a common carrier, after the commencement of this Act, unless he has been granted a certificate of registration.

(*2*) Any person who is engaged, whether wholly or partly, in the business of a common carrier, immediately before the commencement of this Act, shall,—

(*a*) apply for a registration within ninety days from the date of such commencement;

(*b*) cease to engage in such business on the expiry of one hundred and eighty days from the date of such commencement unless he has applied for registration and the certificate of registration has been granted by the registering authority.

4. (*1*) Any person, who is engaged or intends to engage in the business of a common carrier, shall apply for the grant or renewal of a certificate of registration for carrying on the business of common carrier to the registering authority. Application for grant or renewal of registration.

(*2*) An application under sub-section (*1*) shall be made, to the registering authority having jurisdiction in the area in which the applicant resides or has his principal place of business stating that the application is for the main office, in such form and manner and accompanied by such fees payable to the registering authority as may be prescribed.

(*3*) An application for grant or renewal of certificate of registration for the main office shall contain the details of branch office, if any, to be operated outside the jurisdiction of the State or Union territory in which the main office is to be registered in such form and manner as may be prescribed:

Provided that an application for the purpose to open or close a branch office shall be made to the registering authority having jurisdiction over the main office.

(*4*) A registering authority shall, before granting or renewing a certificate of registration, satisfy itself that the applicant fulfills such conditions as may be prescribed.

(*5*) The registering authority may, on receipt of an application under sub-section (*2*) or sub-section (*3*) and after satisfying itself that the applicant fulfills the requirements of sub-section (*4*), grant the certificate of registration or renew it, as the case may be, for carrying on the business of a common carrier, in such form and subject to such conditions as may be prescribed:

Provided that no application for the grant or renewal of a certificate of registration shall be refused by the registering authority unless the applicant has been given an opportunity of being heard and the reasons for such refusal are given in writing by the registering authority within sixty days from the date of receipt of such application:

Provided further that if such refusal has not been communicated within sixty days of the date of application, the registering authority shall grant or renew certificate of registration within a further period of thirty days.

(*6*) A certificate of registration granted or renewed under sub-section (*5*) shall contain the details of branch offices to be operated in various States and Union territories, and shall be valid for a period of ten years from the date of such grant or renewal, as the case may be:

Provided that in the case of registration in respect of branch offices referred to in sub-section (*3*), the validity of such registration shall be restricted to the validity of the registration granted in respect of the main office.

(*7*) The holder of a certificate of registration shall—

(*a*) maintain a register in such form and manner as may be prescribed;

(*b*) for shifting the main office mentioned in the certificate of registration submit an application to the registering authority which granted the certificate of registration:

Provided that such registering authority shall grant or refuse permission for shifting the main office within thirty days from the date of receipt of such application and that no application for shifting the main office shall be refused unless the applicant has been given an opportunity of being heard and reasons for such refusal are given in writing by the registering authority:

Provided further that in case the registering authority has not either granted or refused the permission within thirty days it shall be deemed that the permission for shifting has been granted.

(*c*) submit to the registering authority under whose jurisdiction the main office is located and the Transport Research Wing of the Ministry or Department of the Central Government dealing with road transport and highways such information and return as may be prescribed within one hundred and twenty days after the thirty-first day of March every year;

(*d*) display at a prominent place in its or its main office and each branch office, if any, a certificate of registration in original or certified copy thereof attested by the concerned registering authority, a notary or a Gazetted Officer of the Central or State Government.

(*8*) A common carrier shall not load the motor vehicle beyond the gross vehicle weight mentioned in the registration certificate whose registration number is mentioned in the goods forwarding note or goods receipt, and the common carrier shall not allow such vehicle to be loaded beyond the gross vehicle weight.

Suspension or cancellation of registration.

5. (*1*) If the registering authority is satisfied that the holder of certificate of registration has failed to comply with any of the provisions of sub-section (*7*) of section 4, it may give a notice by registered post or through electronic media or by any verifiable means to the holder of certificate of registration to rectify within a period of thirty days and in case such a holder fails to do so, it may revoke the certificate of registration on completion of enquiry.

(*2*) If a complaint is received by the registering authority against a common carrier from a consignor in respect of,—

(*i*) non-issuance of receipt of goods;

(*ii*) non-disclosure of the whereabouts of the goods in transit when asked by the consignor or consignee; or

(*iii*) detention of goods for delivery without valid reasons; or

(*iv*) demand for unreasonable additional charges at the time of delivery, which were neither disclosed nor agreed upon between the consignor and the consignee earlier; or

(*v*) non-payment of charges agreed and payable to truck-owners,

it may give a notice by registered post or through electronic media or by any other verifiable means to the holder of certificate of registration to rectify the same within a period of thirty days and in case such holder fails to do so, it may revoke certificate of registration for a period as may be prescribed under the rules on completion of that enquiry.

(*3*) If the registering authority or any other authority so authorised under the Motor Vehicles Act, 1988 has received proof of violation of provision of sub-section (*8*) of section 4, it shall be competent to impose the penalty prescribed under section 194 of the Motor Vehicles Act, 1988 on the common carrier, notwithstanding the fact that such penalty have been already imposed on and realised from the driver or the owner of the goods vehicle or the consignor, as the case may be. 59 of 1988.

(*4*) Any action for revocation of certificate of registration shall not be taken under sub-sections (*1*) and (*2*) unless the holder of the certificate of registration is given an opportunity of being heard in the enquiry and reasons for such action are given in writing by the registering authority.

(*5*) The registering authority in whose jurisdiction the main office of the common carrier is located shall be competent to take action under sub-sections (*1*) and (*2*) and any other registering authority who has noticed the violations or has received complaints under the said sub-sections, shall report such matter to the registering authority having jurisdiction over the main office.

(*6*) When the certificate of registration is revoked, the holder of the certificate of registration shall surrender the certificate of registration to the registering authority within a

period of thirty days and it would be incumbent on the holder of the certificate of registration to complete the delivery and transactions in respect of the consignments already accepted by the common carrier from any consignor prior to the revocation of the certificate of registration.

(*7*) The holder of a certificate of registration may, at any time, surrender the certificate to the registering authority which granted the registration and on such surrender the registering authority shall, after obtaining declaration from the holder of the certificate of registration that no liability is outstanding against him and that he shall discharge such liability, if held liable, revoke the certificate of registration:

Provided that if the surrender is in respect of a branch office, the endorsement in respect of the branch office shall be deleted from the certificate of registration and such deletion shall be notified by the registering authority having jurisdiction over the main office to such other authorities as may be prescribed.

Appeal.

6. (*1*) Any person aggrieved by an order of the registering authority refusing to grant or renew a certificate of registration or suspending or revoking a registration under this Act, may, within sixty days from the date of such order, appeal to the State Transport Appellate Tribunal constituted under sub-section (*2*) of section 89 of the Motor Vehicles Act, 1988.

59 of 1988.

(*2*) An appeal under sub-section (*1*) shall be preferred in duplicate in the form of a memorandum setting forth the grounds of objection to the order of the registering authority and shall be accompanied by such fee as may be prescribed.

(*3*) Without prejudice to the provisions of sub-sections (*1*) and (*2*), the provisions of sub-sections (*1*) and (*2*) of section 89 of the Motor Vehicles Act, 1988, as in force immediately before the commencement of this Act, with regard to appeal, shall, as far as may, apply to every appeal as if the provisions aforesaid were enacted by this Act subject to the modification that any reference therein to the "permit" shall be construed as a reference to the "registration".

59 of 1988.

Submission of annual return.

7. The State Transport Authority in respect of each State or Union territory shall submit annually to the Ministry or Department of the Central Government dealing with road transport and highways a consolidated annual return giving the details of the goods carried by the common carriers in that State or the Union territory, as the case may be, on the basis of the returns received from the holders of the registration as specified under clause (*c*) of sub-section (*7*) of section 4.

Goods forwarding note.

8. (*1*) Every consignor shall execute a goods forwarding note, in such form and manner as may be prescribed, which shall include a declaration about the value of the consignment and goods of dangerous or hazardous nature.

(*2*) The consignor shall be responsible for the correctness of the particulars furnished by him in the goods forwarding note.

(*3*) The consignor shall indemnify the common carrier against any damage suffered by him by reason of incorrectness or incompleteness of the particulars on the goods forwarding note.

Goods receipt.

9. (*1*) A common carrier shall,—

(*a*) in case where the goods are to be loaded by the consignor, on the completion of such loading; or

(*b*) in any other case, on the acceptance of the goods by him, issue a goods receipt in such form and manner as may be prescribed.

(*2*) The goods receipt shall be issued in triplicate and the original shall be given to the consignor.

(*3*) The goods receipt shall be *prima facie* evidence of the weight or measure and other particulars of the goods and the number of packages stated therein.

(*4*) The goods receipt shall include an undertaking by the common carrier about the liability under section 10 or section 11.

Liability of common carrier

10. (*1*) The liability of the common carrier for loss of, or damage to any consignment, shall be limited to such amount as may be prescribed having regard to the value, freight and nature of goods, documents or articles of the consignment, unless the consignor or any person duly authorised in that behalf have expressly undertaken to pay higher risk rate fixed by the common carrier under section 11.

(*2*) The liability of the common carrier in case of any delay up to such period as may be mutually agreed upon by and between the consignor and the common carrier and specifically provided in the goods forwarding note including the consequential loss or damage to such consignment shall be limited to the amount of freight charges where such loss, damage or delay took place while the consignment was under the charge of such carrier:

Provided that beyond the period so agreed upon in the goods forwarding note, compensation shall be payable in accordance with sub-section (*1*) or section 11:

Provided further that the common carrier shall not be liable if such carrier proves that such loss of, or damage to, the consignment or delay in delivery thereof, had not taken place due to his fault or neglect or that of his servants or agents thereof.

Rates of charge to be fixed by common carrier for carriage of consignment at a higher risk rate.

11. Every common carrier may require payment for the higher risk undertaken by him in carrying a particular consignment at such rate of charge as he may fix and correspondingly, his liability would be in accordance with the terms as may be agreed upon with the consignor:

Provided that to entitle such carrier to claim payment at a rate higher than his ordinary rate of charge, he should have exhibited a printed or written notice, in English and the vernacular language of the State, of the higher rate of charge in the place or premises where he carries on the business of common carrier.

Conditions limiting exonerating the liability of the common carrier.

12. (*1*) Every common carrier shall be liable to the consignor for the loss or damage to any consignment in accordance with the goods forwarding note, where such loss or damage has arisen on account of any criminal act of the common carrier, or any of his servants or agents.

(*2*) In any suit brought against the common carrier for the loss, damage or non-delivery of consignment, it shall not be necessary for the plaintiff to prove that such loss, damage or non-delivery was owing to the negligence or criminal act of the common carrier, or any of his servants or agents.

(*3*) Where any consignment has been detained for examination or scrutiny by a competent authority and upon such examination or scrutiny it is found that certain prohibited goods or goods on which due tax was not paid or insufficiently paid have been entrusted to the common carrier by the consignor which have not been described in the goods forwarding note, the cost of such examination or scrutiny shall be borne by the consignor and the common carrier shall not be liable for any loss, damage or deterioration caused by such detention of the consignment for examination or scrutiny:

Provided that the onus of proving that such incorrect description of goods in the goods forwarding note was received from the consignor shall be on the common carrier.

Explanation.—For the purposes of this section, "competent authority" means any person or authority who is empowered to examine or scrutinise goods by or under any law for the time being in force to secure compliance of provisions of that law.

13. (*1*) No goods of dangerous or hazardous nature to human life shall be carried by a common carrier except in accordance with such procedure and after complying with such safeguards as may be prescribed.

Provision for carriage of goods of dangerous or hazardous nature to human life.

(*2*) The Central Government may, by rules made in this behalf, specify the goods of dangerous or hazardous nature to human life and the label or class of labels to be carried in, or displayed on, the motor vehicle or such goods in the course of transportation.

(*3*) Notwithstanding anything contained in any other law for the time being in force, every common carrier shall scrutinise and ensure before starting transportation of any consignment containing goods of dangerous or hazardous nature to human life that the consignment is covered by, one or more insurance policies under a contract of insurance in respect of such goods providing relief in case of death or injury to a person or damage to any property or the consignment, if an accident takes place.

14. The Central Government may, by notification in the Official Gazette, specify, in public interest, the goods or class or classes of goods which shall not be carried by a common carrier.

Power of Central Government to prohibit carriage of certain class of goods.

15. (*1*) If the consignee fails to take delivery of any consignment of goods within a period of thirty days from the date of notice given by the common carrier, such consignment may be deemed as unclaimed:

Right of common carrier in case of consignee's default.

Provided that in case of perishable consignment, the period of thirty days shall not apply and the consignment shall be deemed unclaimed after a period of twenty-four hours of service of notice or any lesser period as may be mutually agreed to by and between the common carrier and the consignor.

(*2*) In the case of an unclaimed consignment under sub-section (*1*), the common carrier may,–

(*a*) if such consignment is perishable in nature, have the right to sell the consignment; or

(*b*) if such consignment is not perishable in nature, cause a notice to be served upon the consignee or upon the consignor if the consignee is not available, requiring him to remove the goods within a period of fifteen days from the date of receipt of the notice and in case of failure to comply with the notice, the common carrier shall have the right to sell such consignment without any further notice to the consignee or the consignor, as the case may be.

(*3*) The common carrier shall, out of the sale proceeds received under sub-section (*2*), retain a sum equal to the freight, storage and other charges due including expenses incurred for the sale, and the surplus, if any, from such sale proceeds shall be returned to the consignee or the consignor, as the case may be.

(*4*) Unless otherwise agreed upon between the common carrier and consignor, the common carrier shall be entitled to detain or dispose off the consignment in part or full to recover his dues in the event of the consignee failing to make payment of the freight and other charges payable to the common carrier at the time of taking delivery.

16. No suit or other legal proceeding shall be instituted against a common carrier for any loss of, or damage to, the consignment, unless notice in writing of the loss or damage to the consignment has been served on the common carrier before the institution of the suit or other legal proceeding and within one hundred and eighty days from the date of booking of the consignment by the consignor.

Notice for institution of a suit.

General responsibility of common carrier.

17. Save as otherwise provided in this Act, a common carrier shall be responsible for the loss, destruction, damage or deterioration in transit or non-delivery of any consignment entrusted to him for carriage, arising from any cause except the following, namely:—

(*a*) act of God;

(*b*) act of war or public enemy;

(*c*) riots and civil commotion;

(*d*) arrest, restraint or seizure under legal process;

(*e*) order or restriction or prohibition imposed by the Central Government or a State Government or by an officer or authority subordinate to the Central Government or a State Government authorised by it in this behalf:

Provided that the common carrier shall not be relieved of its responsibility for the loss, destruction, damage, deterioration or non-delivery of the consignment if the common carrier could have avoided such loss, destruction, damage or deterioration or non-delivery had the common carrier exercised due deligence and care in the carriage of the consignment.

Punishment for contravention in relation to non-registration, carrying goods of dangerous or hazardous nature, or prohibited goods.

18. (*1*) Whoever contravenes the provisions of section 3, section 13 or a notification issued under section 14 shall be punishable for the first offence with fine which may extend to five thousand rupees, and for the second or subsequent offence with fine which may extend to ten thousand rupees.

(*2*) If the person committing an offence under this Act is a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(*3*) Notwithstanding anything contained in sub-section (*1*), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be proceeded against and punished accordingly.

Explanation.—For the purpose of this section,—

(*a*) "company" means any body corporate and includes a firm or other association of individuals; and

(*b*) "director", in relation to a firm, means a partner in the firm.

Composition of offences.

19. (*1*) Any offence committed under section 18, may either before or after the institution of the prosecution, be compounded by such officers or authorities and for such amount as the State Government may, by notification in the Official Gazette, specify.

(*2*) Where an offence has been compounded under sub-section (*1*), the offender shall be discharged and no further proceedings shall be taken against him in respect of such offence.

Power to make rules.

20. (*1*) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:–

(a) the form and manner of making an application for grant or renewal of a certificate of registration for main office or branch office and the fee thereof under sub-sections (2) and (3) of section 4;

(b) the other conditions of eligibility which are required to be fulfilled by an applicant under clause (d) of sub-section (4) of section 4;

(c) the form in which and the conditions subject to which certificate of registration or renewal may be granted under sub-section (5) of section 4;

(d) the form and manner of maintaining a register under clause (a) of sub-section (7) of section 4;

(e) the information and return which may be furnished to the registering authority and the transport research wing under clause (c) of sub-section (7) of section 4;

(f) fee for submitting the memorandum of appeal under sub-section (2) of section 6;

(g) the form and manner in which a goods forwarding note shall be executed by the consignor under sub-section (1) of section 8;

(h) the form and manner in which a common carrier shall issue goods receipt under sub-section (1) of section 9;

(i) liability of the common carrier for loss of, or damage to any consignment under sub-section (1) of section 10;

(j) the procedure and safeguards to be complied with for carrying goods of dangerous or hazardous nature under sub-section (1) of section 13;

(k) the specification of the goods of dangerous or hazardous nature to human life and the label or class of labels to be carried or displayed in or on the motor vehicle or on such goods in the course of their transportation under sub-section (2) of section 13; and

(l) any other matter which is required to be, or may be, prescribed.

(3) Every rule made under this section and every notification issued under section 14 shall be laid, as soon as may be after it is made or issued, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or the notification, or both Houses agree that the rule or the notification should not be made or issued, the rule or the notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification.

Power to remove difficulties.

21. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by general or special order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made under this section after the expiry of two years from the date of commencement of this Act.

(2) Every order made under sub-section (1) shall be laid, as soon as may be, after it is made, before each House of Parliament.

Repeal and saving.

22. (1) The Carriers Act, 1865, is hereby repealed. 3 of 1865.

(2) Notwithstanding the repeal of the Carriers Act, 1865, anything done or any action taken under the said Act shall, in so far as such thing or action is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the provisions of this Act and shall continue in force accordingly until superseded by anything done or any action taken under this Act. 3 of 1865.

(3) The mention of particular matters in this section shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897 with regard to the effect of repeals. 10 of 1897.

Sd/-

DR. K. N. CHATURVEDI,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

H. D. VYAS
Secretary to Government.

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